

**BIENNIAL REPORT**  
**of the**  
**ATTORNEY GENERAL**  
**of the**  
**STATE OF MICHIGAN**  
**for the**  
BIENNIAL PERIOD ENDING DECEMBER 31, 2002  
**JENNIFER M. GRANHOLM**  
ATTORNEY GENERAL

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**AUTHORITY**

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## LETTER OF TRANSMITTAL

To the Honorable Legislature of the State of Michigan:

In accordance with the provisions of MCLA 14.30, I submit the Report of the Attorney General for the biennial period of January 1, 2001 through December 31, 2002.

JENNIFER M. GRANHOLM  
Attorney General



**JENNIFER M. GRANHOLM**

*Attorney General*

Northville, Michigan. University of California, Berkeley, B.A., earning highest honors. Harvard Law School, J.D., Cum Laude. Admitted to practice law November, 1987. Sworn in as Attorney General of Michigan, January 1, 1999.





**WILLIAM J. RICHARDS**

*Deputy Attorney General*

Beverly Hills, Michigan. University of Michigan, A.B., J.D. Admitted to practice law in 1972. Assistant U.S. Attorney, 1975-1979, 1989-1998. Private practice 1979-1989. Appointed Deputy Attorney General January 4, 1999.



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## ATTORNEYS GENERAL OF THE STATE OF MICHIGAN

### APPOINTED

DANIEL LEROY	July 18th, 1836–1837
PETER MOREY	March 21st, 1837–1841
ZEPHANIAH PLATT	March 4th, 1841–1843
ELON FARNSWORTH	March 9th, 1843–1845
HENRY N. WALKER	March 24th, 1845–1847
EDWARD MUNDY	March 12th, 1847–1848
GEORGE V. N. LOTHROP	April 3rd, 1848–1850

### ELECTED

WILLIAM HALE	1851–1854
JACOB M. HOWARD	1855–1860
CHARLES UPSON	1861–1862
ALBERT WILLIAMS	1863–1866
WILLIAM L. STOUGHTON	1867–1868
DWIGHT MAY	1869–1872
BYRON B. BALL(a)	1873–1874
ISAAC MARSTON	April 1st, 1874–1874
ANDREW J. SMITH	1875–1876
OTTO KIRCHER	1877–1880
JACOB J. VAN RIPER	1881–1884
MOSES TAGGERT	1885–1888
STEPHEN V. R. TROWBRIDGE(b)	1889–1890
BENJAMIN W. HOUSTON	March 25th, 1890–1890
ADOLPHUS A. ELLIS	1891–1894
FRED A. MAYNARD	1895–1898
HORACE M. OREN	1899–1902
CHARLES A. BLAIR	1903–1904
JOHN E. BIRD(c)	1905–1910
FRANZ C. KUHN(d)	June 7th, 1910–1912
ROGER I. WYKES	September 6th, 1912–1912
GRANT FELLOWS	1913–1916
Alex J. GROESBECK	1917–1920
MERLIN WILEY(e)	1921–1922
ANDREW B. DOUGHERTY(f)	1923–1926
CLARE RETAN	1926–1926
W. W. POTTER(g)	1927–1928
WILBUR M. BRUCKER	1928–1930
PAUL W. VOORHIES	1931–1932
PATRICK H. O'BRIEN	1933–1934
HARRY S. TOY(h)	October 24th, 1935–1935
DAVID H. CROWLEY	1935–1936

(a) Resigned April 1st, 1874. Isaac Marston appointed to fill vacancy.

(b) Resigned March 25th, 1890. Benjamin W. Houston appointed to fill vacancy.

(c) Resigned June 6th, 1910. Franz C. Kuhn appointed to fill vacancy.

(d) Resigned September 6th, 1912. Roger I. Wykes appointed to fill vacancy.

(e) Resigned January 9th, 1923. Andrew B. Dougherty appointed to fill vacancy.

(f) Resigned October 27th, 1926. Clare Retan appointed to fill vacancy.

(g) Resigned February 16th, 1928. Wilbur M. Brucker appointed to fill vacancy.

(h) Resigned October 14th, 1935. David H. Crowley appointed to fill vacancy.

RAYMOND W. STARR .....	1937–1938
THOMAS READ .....	1939–1940
HERBERT J. RUSHTON .....	1941–1944
JOHN J. DETHMERS(i) .....	1945–1946
FOSS O. ELDRED .....	September 9th, 1946–1946
EUGENE F. BLACK .....	1947–1948
STEPHEN J. ROTH .....	1949–1950
FRANK G. MILLARD .....	1951–1954
THOMAS M. KAVANAGH(j) .....	1955–1957
PAUL L. ADAMS(k) .....	1958–1961
FRANK J. KELLEY .....	1962–1998
JENNIFER M. GRANHOLM .....	1999–2002

- 
- (i) Resigned September 9th, 1946. Foss O. Eldred appointed to fill vacancy.  
(j) Resigned December 31st, 1957. Paul L. Adams appointed to fill vacancy.  
(k) Resigned December 31st, 1961. Frank J. Kelley appointed to fill vacancy.

REGISTER OF  
DEPARTMENT OF ATTORNEY GENERAL

2001–2002

Attorney General . . . . .	JENNIFER M. GRANHOLM
Deputy Attorney General . . . . .	WILLIAM J. RICHARDS
Deputy Attorney General for External Affairs . . . . .	KELLY G. KEENAN
Solicitor General . . . . .	THOMAS L. CASEY
Assistant Attorney General for Law . . . . .	THEODORE E. HUGHES*
Litigation Coordinator . . . . .	MICHAEL C. MCDANIEL
Division Coordinator . . . . .	MUSETTE A. MICHAEL
Assistant in Charge of Detroit Office . . . . .	RON D. ROBINSON

\* Retired 10/31/2002. Susan Leffler appointed.

ASSISTANT ATTORNEYS GENERAL

YASMIN J. ABDUL-KARIM	E. DAVID BROCKMAN <sup>4</sup>
RICHARD M.C. ADAMS	MARVIN L. BROMLEY
TODD B. ADAMS	BARBARA J. BROWN
TONATZIN M. ALFARO-MAIZ	R. PHILIP BROWN <sup>5</sup>
DONALD L. ALLEN, JR.	LARRY F. BRYA
CYNTHIA M. ARVANT	JOHN M. CAHILL
ROSENDO ASEVEDO, JR.	JENNIFER S. CALLAGHAN
CRAIG ATCHINSON <sup>1</sup>	CHRISTINE MIKRUT CAMPBELL
ANDREA D. BAILEY	WILLIAM C. CAMPBELL
DAVID L. BALAS <sup>2</sup>	DAVID C. CANNON
PATRICIA S. BARONE	RAY W. CARDEW, JR.
KATHARYN A. BARRON	BEN D. CARTER <sup>6</sup>
MARGARET A. BARTINDALE	KELLY A. CARTER
DENISE C. BARTON	JEROME C. CAVANAGH
H. DANIEL BEATON, JR.	KATHLEEN L. CAVANAUGH
BRAD H. BEAVER	JOHN M. CHARAMELLA
JULIA R. BELL	WILLIAM A. CHENOWETH
TERRENCE G. BERG	DENISE H. CHRYSLER
TERESA A. BINGMAN	SUANN M. COCHRAN
ROSS H. BISHOP	TODD H. COHAN
PHILIP L. BLADEN	CAROLYN R. COHEN <sup>7</sup>
E. JOHN BLANCHARD	DEBORAH S. COHN
JUDITH I. BLINN	
JACK A. BLUMENKOPF	<sup>1</sup> RETIRED 6/28/2002
MARK E. BLUMER	<sup>2</sup> RETIRED 9/30/2002
THOMAS P. BOYD	<sup>3</sup> RETIRED 4/27/2001
HENRY J. BOYNTON	<sup>4</sup> RETIRED 10/31/2002
JEFFREY S. BRAUNLICH	<sup>5</sup> RETIRED 10/31/2002
PAUL L. BRICKER <sup>3</sup>	<sup>6</sup> RETIRED 10/31/2002
DAVID D. BRICKEY	<sup>7</sup> RESIGNED 6/10/2002

LAURA A. COOK  
 PATRICK E. CORBETT<sup>8</sup>  
 LINDA KURTZ CRAVEN  
 JULIUS O. CURLING  
 ERROL R. DARGIN  
 MARK F. DAVIDSON  
 CATHERINE M. DAVIS<sup>9</sup>  
 JON M. DEHORN  
 JAMES P. DELANEY  
 CHRISTINE A. DERDARIAN<sup>10</sup>  
 WILLIAM W. DERENGOSKI  
 DEBORAH A. DEVINE  
 DARNELLE DICKERSON  
 CHRISTOPHER D. DOBYNS<sup>11</sup>  
 CHARLES E. DONAHUE<sup>12</sup>  
 MARK E. DONNELLY  
 SANNA DURK  
 DAVID G. EDICK  
 ERIC J. EGGAN  
 GEORGE M. ELWORTH  
 RONALD W. EMERY  
 DONALD E. ERICKSON  
 STACY L. ERWIN  
 ANGELITA ESPINO  
 RONALD H. FARNUM  
 JAMES T. FARRELL  
 SHARON L. FELDMAN  
 CHANTAL B. FENNESSEY  
 GARY L. FINKBEINER<sup>13</sup>  
 ELAINE D. FISCHHOFF  
 KATHLEEN P. FITZGERALD  
 MARGARET M. FLANAGAN  
 STEVEN B. FLANCHER  
 SHERRI T. FLEMING  
 DAVID K. FOUST  
 DARRIN F. FOWLER  
 MICHAEL J. FRALEIGH  
 PHILLIP I. FRAME  
 STEWART H. FREEMAN  
 MICHAEL G. FREZZA  
 LEO H. FRIEDMAN  
 LUANN C. FROST  
 DAVID M. GADALETO<sup>14</sup>  
 DEBRA M. GAGLIARDI  
 DIANE L. GALBRAITH<sup>15</sup>  
 KATHERINE C. GALVIN  
 DEBORAH R. GARCIA-LUNA<sup>16</sup>  
 KATHLEEN A. GARDINER  
 STEPHEN H. GARRARD<sup>17</sup>  
 RICHARD P. GARTNER  
 CLIVE D. GEMMILL<sup>18</sup>  
 STEPHEN M. GESKEY  
 KATHLEEN A. GLEESON

JAMES W. GLENNIE  
 JOHN H. GOETZ<sup>19</sup>  
 DANA M. GOLDBERG  
 HOWARD E. GOLDBERG  
 PAUL D. GOODRICH  
 GARY P. GORDON  
 JENNIFER L. GORDON  
 NEIL D. GORDON  
 A. PETER GOVORCHIN  
 TERRENCE P. GRADY  
 DANIEL M. GREENBERG<sup>20</sup>  
 DENNIS J. GRIFFKA<sup>21</sup>  
 ERIK A. GRILL  
 JOSHUA W. GUBKIN  
 SOCORRO GUERRERO  
 CHARLES D. HACKNEY  
 LINDA K. HANDREN  
 KATHERINE L. HANSEN  
 KIM G. HARRIS  
 SUSAN A. HARRIS<sup>22</sup>  
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 JUDY A. HARTSFIELD  
 GARY L. HICKS<sup>23</sup>  
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 ROSE A. HOUK  
 PEGGY A. HOUSNER  
 RAYMOND O. HOWD  
 STEVEN D. HUGHEY  
 ROLAND HWANG  
 ROBERT IANNI  
 ORJIAKOR N. ISIOGU  
 PATRICK F. ISOM  
 MARY PAT JARACZ<sup>24</sup>

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<sup>8</sup> RESIGNED 7/13/2001

<sup>9</sup> RETIRED 10/31/2002

<sup>10</sup> RETIRED 10/31/2002

<sup>11</sup> RETIRED 6/28/2002

<sup>12</sup> RETIRED 10/31/2002

<sup>13</sup> RETIRED 10/31/2002

<sup>14</sup> RESIGNED 5/24/2002

<sup>15</sup> RETIRED 6/21/2002

<sup>16</sup> RESIGNED 1/18/2002

<sup>17</sup> RETIRED 10/31/2002

<sup>18</sup> RETIRED 8/16/2002

<sup>19</sup> RETIRED 12/31/2001

<sup>20</sup> RESIGNED 3/2/2001

<sup>21</sup> RETIRED 10/31/2002

<sup>22</sup> RETIRED 6/21/2002

<sup>23</sup> RETIRED 8/31/2001

<sup>24</sup> RETIRED 8/16/2002

MOLLY M. JASON  
 NICHOLE M. JENNINGS  
 TONYA C. JETER  
 DAPHNE M. JOHNSON  
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 KURT E. KRAUSE  
 GARY G. KRESS<sup>26</sup>  
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 VINCENT J. LEONE  
 JESSICA E. LEPINE  
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 LARRY W. LEWIS  
 SHERYL L. LITTLE-FLETCHER  
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 JAMES E. LONG  
 IRIS M. LOPEZ  
 LAURA M. LYNCH<sup>27</sup>  
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 S. PETER MANNING  
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 HAROLD J. MARTIN  
 ROBERT J. MARTIN  
 MARK W. MATUS  
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 LINDA P. MCDOWELL  
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 DONALD S. MCGEHEE  
 JOEL D. MCGORMLEY

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 KELLEY T. McLEAN  
 JULIE A. McMURTRY  
 IRENE M. MEAD<sup>28</sup>  
 MARK S. MEADOWS<sup>29</sup>  
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 ROBERT L. MOL  
 WILLIAM E. MOLNER  
 FRANK J. MONTICELLO  
 LAURA L. MOODY  
 MICHAEL E. MOODY  
 SUSAN B. MOODY-FREZZA  
 WILLIAM R. MORRIS  
 MICHAEL F. MURPHY  
 MARGARET A. NELSON  
 MICHAEL A. NICKERSON  
 TERRY L. NORTON<sup>30</sup>  
 PAUL F. NOVAK  
 CYNTHIA M. NUNEZ  
 PATRICK J. O'BRIEN  
 LINDA M. OLIVIERI  
 RICHARD T. O'NEILL  
 DEE J. PASCOE  
 SANTE J. PERRELLI  
 WILLIAM F. PETTIT  
 SHEILA A. PHILLIPS<sup>31</sup>  
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 JAMES R. PIGGUSH  
 NANCY A. PIGGUSH  
 THOMAS S. PIOTROWSKI  
 PETER L. PLUMMER  
 JOSEPH E. POTCHEN  
 RUSSELL E. PRINS  
 STANLEY F. PRUSS  
 SUSAN PRZEKOP-SHAW  
 C. ADAM PURNELL  
 THOMAS QUASARANO  
 RONALD E. QUICK  
 ANDREW D. QUINN<sup>32</sup>  
 PATRICIA TERRELL QUINN  
 DENNIS J. RATERINK  
 VICTORIA A. REARDON  
 ROBERT P. REICHEL  
 MICHAEL J. REILLY

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<sup>25</sup> RETIRED 6/28/2002

<sup>26</sup> RETIRED 10/25/2002

<sup>27</sup> RESIGNED 6/8/2001

<sup>28</sup> RETIRED 10/18/2002

<sup>29</sup> RETIRED 6/26/2002

<sup>30</sup> RETIRED 6/29/2001

<sup>31</sup> RETIRED 11/4/2002

<sup>32</sup> RETIRED 10/31/2002

MATTHEW H. RICK  
 MICHELLE M. RICK  
 STEPHEN M. RIDEOUT  
 JAMES E. RILEY  
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 ANNE-MARIE H. VOICE<sup>39</sup>  
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 LARRY G. WATTERWORTH<sup>40</sup>  
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 GEORGE H. WELLER<sup>41</sup>  
 ROBERT S. WELLIVER  
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 THOMAS R. WHEELER<sup>42</sup>  
 GLENN R. WHITE  
 SHARON H. WHITMER<sup>43</sup>  
 RANDALL W. WHITWORTH<sup>44</sup>  
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 ROBERT L. WILLIS, JR.<sup>45</sup>  
 LISA K. WINER  
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 SHANNON N. WOOD  
 PATRICK J. WRIGHT<sup>46</sup>  
 JOSEPH L. YANOSCHIK  
 MICHAEL A. YOUNG  
 MORRISON R. ZACK  
 RONALD C. ZELLAR<sup>47</sup>

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<sup>33</sup> RETIRED 10/4/2002

<sup>34</sup> RETIRED 10/31/2002

<sup>35</sup> RETIRED 10/31/2002

<sup>36</sup> RETIRED 10/31/2002

<sup>37</sup> RESIGNED 9/6/2002

<sup>38</sup> RESIGNED 4/12/2002

<sup>39</sup> RESIGNED 8/16/2002

<sup>40</sup> RETIRED 10/31/2002

<sup>41</sup> RETIRED 10/31/2002

<sup>42</sup> RETIRED 8/16/2002

<sup>43</sup> DECEASED 6/4/2002

<sup>44</sup> RETIRED 6/28/2002

<sup>45</sup> RETIRED 10/31/2001

<sup>46</sup> RESIGNED 8/29/2002

<sup>47</sup> RETIRED 10/31/2002

BOBBIE ROUNSIFER . . . . .Secretary to Attorney General\*

SANDRA J. SZUL . . . . .Secretary to Deputy Attorney General

GERILYNN M. HUNTER . . .Secretary to Deputy Attorney General for External Affairs

\* Retired 6/28/2002. Sherry A. Hicks appointed 8/5/2002.

## SECRETARIES

STEPHANIE ANDREADIS  
 LINDA S. ANDREAS  
 DEBORAH S. ANDREWS  
 CYNTHIA L. ARMSTRONG  
 CYNTHIA A. AVEN  
 BARBARA J. BAILEY  
 ESTHER H. BAN  
 REBECCA L. BARNARD<sup>48</sup>  
 GERALDINE BARNES<sup>49</sup>  
 BRENDA L. BARTON  
 M. ANNETTE BARZEY  
 SARA J. BELAND  
 ELAINE M. BERGMAN<sup>50</sup>  
 SUSAN J. BERTRAM  
 VIRGINIA K. BEURKENS  
 TINA L. BIBBS  
 MARGARET E. BLUM  
 PATRICIA J. BOUCHER  
 VIVIAN R. BOYD  
 DIANE T. BOZACK<sup>51</sup>  
 BENITA A. BRADFORD<sup>52</sup>  
 JUDITH A. BRADMAN<sup>53</sup>  
 S. RONETTE BROMLEY  
 SCHERYL S. BROOKS  
 DENISE J. BRUCKMAN  
 MARY C. BURKE-GIANINO  
 JENNIFER A. CARLSON  
 MARCELE J. CHALLENGER  
 DOLORES A. CLARK  
 FRANCINE L. CLARK  
 ROBBIN S. CLICKNER  
 CONSTANCE D. CONLEY<sup>54</sup>  
 LISA S. COUTY<sup>55</sup>  
 MICHELLE M. CURTIS-CATALINE  
 CAROL A. DANE  
 JANET S. DARLING<sup>56</sup>  
 CINDY J. DELONG  
 RUTH A. DEMAGGIO<sup>57</sup>  
 JULIE A. DENNY  
 VALERIE J. DERKS<sup>58</sup>  
 SHEILA L. DIAMOND  
 BARBARA G. DORGAN  
 LINDA M. DROSTE  
 KAREN L. EDDIE<sup>59</sup>

FRANCES J. EDGIN  
 RACHEL L. EDMONDSON  
 CARNETTA D. ELDER  
 BARBARA L. FAIR  
 JESSIE A. FARKAS  
 SHELENE K. FASNAUGH  
 CHERYL S. FERRY  
 LILLIAN M. FINCHIO  
 RHONDA G. FLOYD  
 SHERRY L. FORD<sup>60</sup>  
 DONNA J. FRASURE<sup>61</sup>  
 JOLINDA J. FULTON  
 LOIS J. GARVER  
 JULIE A. GERSZEWSKI  
 CHERYL A. GOFF  
 AMY A. GONEA  
 REBECA GONZALES<sup>62</sup>  
 MARNI J. GOODWIN  
 STEPHANIE L. GRACE  
 EVA M. GROSS<sup>63</sup>  
 LOIS E. GRUESBECK  
 HOLLY L. GUSTAFSON  
 ERIKA L. HAMILTON  
 DIANA M. HANKS  
 SUZANNE C. HANSEN<sup>64</sup>  
 CAROLYN A. HARRIS

<sup>48</sup> DECEASED 2/22/2001

<sup>49</sup> RESIGNED 5/25/2001

<sup>50</sup> RETIRED 10/31/2002

<sup>51</sup> RETIRED 10/31/2002

<sup>52</sup> RETIRED 10/31/2002

<sup>53</sup> RETIRED 6/28/2002

<sup>54</sup> RETIRED 10/31/2002

<sup>55</sup> RESIGNED 3/30/2001

<sup>56</sup> RETIRED 7/5/2002

<sup>57</sup> RETIRED 10/31/2002

<sup>58</sup> RESIGNED 4/13/2001

<sup>59</sup> RETIRED 6/28/2002

<sup>60</sup> RETIRED 10/31/2002

<sup>61</sup> RESIGNED 8/29/2001

<sup>62</sup> RETIRED 12/17/2001

<sup>63</sup> TRANSFERRED 12/06/2002

<sup>64</sup> RETIRED 1/5/2001

KIMBERLY K. HARRIS-BURROWS  
 NANCY E. HART  
 PATRICIA K. HARTMAN  
 DARLENE K. HEILNER  
 SHERRY A. HICKS  
 IRENE D. HICKS  
 ALISA S. HILL  
 KAREN M. HORNUS  
 KARYN B. HOWD  
 LYNNE L. HUBER  
 STARKEMA T. JACKSON  
 CYNTHIA A. JAKUS  
 TRACIE L. JAMES  
 RANDALYN G. JEGLA  
 NANCY L. JOHNSON<sup>65</sup>  
 ANN J. JONES  
 SONYA G. JONES-BRADLEY  
 MARCIEL E. KIHN  
 ANGELA K. KILVINGTON  
 ALICIA K. KIRKEY  
 PATRICIA A. KLEIN  
 JUDY A. LAMBIE<sup>66</sup>  
 ANN T. LANTZY  
 CARLA S. LECHLER  
 KAREN E. LOCKWOOD  
 SYLVIA MACGREGOR  
 EVELYN J. MARTIN<sup>67</sup>  
 BERTHA L. MATHIS  
 KIM I. MATHISON  
 BILLIE JO MCBRIEN  
 MARIE G. MEDLOCK  
 DIXIE B. MILLER<sup>68</sup>  
 CHARLES F. MORGAN<sup>69</sup>  
 LAUREN J. MORRISH  
 ANNETTE L. MURPHY  
 KIMBORLY S. MUSSER  
 DENISE L. O'BRIEN  
 MISHELLE R. PAGELS  
 MARIE B. PARKER  
 SHEILA L. PARSONS<sup>70</sup>  
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<sup>65</sup> RETIRED 10/31/2002

<sup>66</sup> RETIRED 10/31/2002

<sup>67</sup> RETIRED 6/8/2001

<sup>68</sup> RETIRED 6/28/2002

<sup>69</sup> RETIRED 1/2/2001

<sup>70</sup> RETIRED 6/7/2002

<sup>71</sup> RESIGNED 3/25/2002

<sup>72</sup> RETIRED 10/31/2002

<sup>73</sup> RETIRED 3/30/2001

<sup>74</sup> RETIRED 4/1/2001

<sup>75</sup> RETIRED 10/31/2002

<sup>76</sup> RETIRED 10/31/2002

<sup>77</sup> RETIRED 10/31/2002

<sup>78</sup> RETIRED 12/31/2001

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<sup>79</sup> RESIGNED 4/5/2001

<sup>80</sup> RETIRED 8/31/2001

<sup>81</sup> RETIRED 6/28/2002

<sup>82</sup> RETIRED 10/31/2002

<sup>83</sup> TRANSFERRED 2/2/2001

<sup>84</sup> RETIRED 6/28/2002

<sup>85</sup> RETIRED 7/31/2002

<sup>86</sup> RESIGNED 7/26/2002

<sup>87</sup> RESIGNED 8/24/2001

<sup>88</sup> RETIRED 6/28/2002

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<sup>89</sup> RETIRED 10/25/2002

<sup>90</sup> RESIGNED 8/17/2001

<sup>91</sup> RETIRED 10/31/2002

<sup>92</sup> RETIRED 10/31/2002

<sup>93</sup> RESIGNED 12/21/2002

<sup>94</sup> RESIGNED 8/6/2001

<sup>95</sup> TRANSFERRED 2/16/2002

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    AG --- DAG
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    AAG1 --- A1_1[Alcohol & Gambling  
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    AAG1 --- A1_2[Appellate  
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Michael Lockman]
    A4_1 --- A4_1_2[Prosecuting Attorneys  
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Charles Hackney]
    A4_1 --- A4_1_3[Public Employment,  
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Gary Gordon]
    A4_1 --- A4_1_4[Public Service  
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    AAG5 --- A5_3[Children & Youth Services  
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    AAG5 --- A5_4[Civil Rights  
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Ron Syka]
  
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The organizational chart for the Office of the Attorney General, Jennifer M. Granholm, is structured as follows:

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    - Children & Youth Services: Judy Harfield
    - Civil Rights & Civil Liberties: Ron Robinson
    - Community Health & Public Administration: Ron Syka
  - Deputy Attorney General for External Affairs Kathy Keenan**
    - Consumer Protection: Sandy Fuchs
    - Corrections: Leo Friedman
    - Criminal: Robertanni
    - Economic Development & Retirement: Thomas Schimpf
    - Education: Edith Harlan
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  - Assistant Attorney General for Litigation Coordination Michael McDaniel**
  - Office of Legislative Affairs Lynn Owen, Director**
  - Office of Communications Genna Gent, Director**
  - Office of Human Resources Douglas L. Bromble, Director**
  - Office of Fiscal Management Nicolas Lyon, Director**
  - Pro. Atty. Coord. Council\*\* Thomas M. Robertson, \*Autonomous Entity**

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2001-2002**

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Allegan	Allegan	Frederick L. Anderson
Alpena	Alpena	Dennis P. Grenkowitz
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Bay	Bay City	Joseph K. Sheeran
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Berrien	St. Joseph	James A. Cherry
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Dickinson	Iron Mountain	Christopher Ninomiya
Eaton	Charlotte	Jeffrey L. Sauter
Emmet	Petoskey	Robert J. Engel
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Gladwin	Gladwin	Thomas R. Evans
Gogebic	Bessemer	Richard Adams
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Gratiot	Ithaca	Keith J. Kushion
Hillsdale	Hillsdale	Neal A. Brady
Houghton	Houghton	Douglas S. Edwards
Huron	Bad Axe	Mark J. Gaertner
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Ionia	Ionia	Gail A. Benda
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Kalamazoo	Kalamazoo	James J. Gregart
Kalkaska	Kalkaska	Brian F. Donnelly
Kent	Grand Rapids	William A. Forsyth
Keweenaw	Eagle River	Donna L. Jaaskelainen
Lake	Baldwin	David C. Woodruff

Lapeer	Lapeer . . . . .	Byron J. Konschuh
Leelanau	Leland . . . . .	Sara Brubaker
Lenawee	Adrian . . . . .	Irving C. Shaw, Jr.
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Ogemaw	West Branch . . . . .	Darris B. Richards
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## OPINION POLICY

By statute<sup>1</sup> the Attorney General is required to give her opinion on questions of law submitted by the Legislature,<sup>2</sup> Governor, Auditor General, Treasurer, or any other state officer.<sup>3</sup> Michigan's Supreme Court has recognized that one of the "primary missions" of the Attorney General is to give legal advice to members of the Legislature, and to departments and agencies of state government.<sup>4</sup> County prosecutors may also submit opinion requests provided that they are accompanied by a memorandum of law analyzing the legal question.

The demand for legal services from this office continues to rise at a more rapid rate than the resources available to us. Therefore, the Attorney General must concentrate limited resources on opinion requests that affect the operation of state government rather than on requests affecting local units of government. The Legislature has authorized local units of government to employ their own legal counsel who are usually more familiar with local conditions. Thus, as a general rule, the Attorney General will not issue opinions concerning strictly local matters such as interpretation of local charters, local ordinances, locally negotiated collective bargaining agreements, and other local issues.

Upon receipt, all opinion requests are referred to the Assistant Attorney General for Law. Opinion requests are initially evaluated to determine whether to grant the request. Typical reasons for declining a request are that the requester lacks standing (e.g., is not a person named in the statute cited at n 1), or that the question: (a) seeks an interpretation of proposed legislation that may never become law, (b) is currently pending before a tribunal, (c) involves the operation of the judicial branch of government or a local unit of government, or (d) seeks legal advice for or involves disputes between private persons or entities.

If the request is granted, it is then determined whether the response should be classified as a formal opinion, letter opinion, or informational letter. Formal opinions address questions significant to the state's jurisprudence that warrant publication. Letter opinions involve questions that should be addressed by the Attorney General, but that are of limited impact and do not warrant publication. Informational letters address questions that have relatively clear, well-established answers. Copies of all pending requests are provided to the Governor's Legal Counsel, and to the Senate and House Majority and Minority Counsel, thereby affording the opportunity for input. On request, any person is permitted to present information regarding pending requests.

If the opinion request is granted, it is assigned to an assistant attorney general having a recognized expertise in the relevant area of the law. This attorney is expected to prepare a thoroughly researched and well-written draft. The Assistant

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<sup>1</sup> MCL 14.32.

<sup>2</sup> The Attorney General has historically interpreted this to include individual legislators.

<sup>3</sup> *LaFountain v Attorney General*, 200 Mich App 262, 264; 503 NW2d 739 (1993).

<sup>4</sup> *East Grand Rapids School Dist v Kent Co*, 415 Mich 381, 394; 330 NW2d 7 (1982).

Attorney General for Law edits the draft to assure it is both legally sound and well-written. The draft may be circulated to other Department of Attorney General lawyers for substantive review.

All informational letters, and most letter opinions, are submitted directly to the Deputy Attorney General for review and approval. If the draft does not require further editing, it is submitted to the Attorney General or, in the case of informational letters, the draft is signed and issued by the Deputy Attorney General. Drafts of most formal opinions and some letter opinions are first submitted for consideration and approval by the Attorney General's Opinion Review Board (ORB).

The ORB, which meets weekly to review draft opinions, consists of eight senior assistant attorneys general. The ORB assures that draft opinions are both legally accurate and well-written. In considering a draft, the ORB has several options, including receiving input from the drafter as well as other persons outside the department, revising the draft, directing that revisions be made by others, and requesting that a counter draft be submitted by either the original drafter or by another person.

Upon final ORB approval, draft opinions are submitted to the Deputy Attorney General for review and, if approved, to the Attorney General for her approval and signature. As part of their review, the Deputy Attorney General and the Attorney General approve the draft as is, make editing changes or, in rare instances, make significant revisions. The Deputy Attorney General for External Affairs also participates in the review process.

Upon issuance, formal opinions are published and indexed in the Biennial Report of the Attorney General. Formal opinions issued since March 1, 1963, are available on the Attorney General's website: [www.michigan.gov/ag](http://www.michigan.gov/ag). Formal opinions issued since 1977 can be found on both Westlaw and Lexis. Formal and letter opinions are available on request from the department's Executive-Opinions Division.

**BONDS: Police department imposing fee for receiving court-ordered bond**

**CRIMINAL LAW:**

**POLICE:**

**A police department may not charge and collect an administrative fee for receiving a bond ordered by a judge.**

Opinion No. 7070

January 3, 2001

Honorable Laura M. Toy  
State Representative  
The Capitol  
Lansing, MI

You have asked whether a police department may charge and collect an administrative fee for receiving a bond ordered by a judge.

Information supplied with your request indicates that a police department plans to impose an administrative fee of \$5.00 or more when it receives a bond ordered by a judge on an arrest warrant or bench warrant.

A police department is part of local government. In Michigan, local units of government have no inherent powers. Rather, they have only the limited powers "expressly conferred upon them by the Constitution of the State of Michigan, by acts of the Legislature, or necessarily implied therefrom." *Crain v Gibson*, 73 Mich App 192, 200; 250 NW2d 792 (1977), citing *Alan v Wayne Co*, 388 Mich 210; 200 NW2d 628 (1972); Const 1963, art 7, § 34.

Under the common law, there is no right to collect fees in court proceedings. A fee must be authorized by a statute before a public officer or public employee may impose the fee in a court proceeding. *Fletcher v Kalkaska Circuit Judge*, 81 Mich 186, 194; 45 NW 641 (1890); *In re Fees of Court Officer*, 222 Mich App 234, 242; 564 NW2d 509 (1997). The Michigan Legislature has adopted this same basic principle by enacting at least two statutory provisions limiting the imposition of fees in criminal and civil cases to those "allowed by the laws of this state" (MCL 600.2513; MSA 27A.2513), or to those "allowed by law for such services." MCL 775.10; MSA 28.1247.

Through 1966 PA 257, MCL 780.61 *et seq*; MSA 28.872(51) *et seq*, the Legislature has regulated bail for persons accused of traffic and misdemeanor offenses. When an accused person posts bail, she obtains her release from custody in exchange for promising to appear as directed for all court hearings in her case. A deliberate failure to appear results in the accused forfeiting the money she posted as bail. Section 8 of the bail statute authorizes a police officer to collect bail from an accused and to deposit it with the court clerk. But there is no authority for a police department or its employees to impose an additional administrative fee when it collects a court-ordered bond. In contrast, section 6(6) of 1966 PA 257 expressly authorizes court clerks to retain ten percent of the bail deposit as a service fee in certain cases. See also OAG, 1981-1982, No 5890, pp 153, 156 (April 30, 1981).

Research discloses no statute authorizing a police department to impose any administrative fee when it collects a court-ordered bond. In the absence of an authorizing statute, it must be concluded that a police department lacks authority to impose an administrative fee for collecting a court-ordered bond.

It is my opinion, therefore, that a police department may not charge and collect an administrative fee for receiving a bond ordered by a judge.

JENNIFER M. GRANHOLM  
*Attorney General*

**ANNEXATION: County commissioner serving as head of village department of public works****COUNTIES:****INCOMPATIBILITY:****PUBLIC OFFICERS AND OFFICES:****VILLAGES:**

**The Incompatible Public Offices Act does not prohibit a person from simultaneously serving as a member of a county board of commissioners and as head of a village's department of public works in the same county when a petition to annex land to the village has been submitted to the county board of commissioners for review and approval.**

Opinion No. 7071

January 4, 2001

Honorable Ken Bradstreet  
State Representative  
The Capitol  
Lansing, MI

You have asked whether the Incompatible Public Offices Act prohibits a person from simultaneously serving as a member of a county board of commissioners and as head of a village's department of public works in the same county when a petition to annex land to the village has been submitted to the county board of commissioners for review and approval.

The Incompatible Public Offices Act, 1978 PA 566, MCL 15.181 *et seq*; MSA 15.1120(121) *et seq* (Act), prohibits the same person from simultaneously holding two or more incompatible public offices. Section 1(b) of the Act defines incompatible public offices as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

As a threshold issue, it must be determined if the Act applies to the two public positions identified in your question. Members of the county board of commissioners are elected officials. OAG, 1995-1996, No 6903, p 172, 173 (May 28, 1996). The head of a village department of public works is a village officer appointed by the village council under MCL 62.2(1); MSA 5.1216(1). Thus, each of these positions is a public office under section 1(e)(ii) of the Act, which covers persons elected or appointed to county and village offices.

The Act exempts from its incompatibility restrictions on governmental units having populations under 25,000. Section 3(4)(c). The governmental units that are the subject of your question have populations under 25,000. But this exemption applies only to public positions within the same unit of government. Here, the positions are in different units of government and, therefore, section 3(4)(c)'s exemption does not apply.

The determination whether the simultaneous holding of the two public offices results in the subordination of one public office to another, or the supervision of one

public officer by another, requires an examination of the nature and duties of each position. Members of a county board of commissioners are elected officials generally responsible for managing the affairs of the county. OAG, 1995-1996, No 6903, at 173. The village council appoints the head of the department of public works and prescribes the powers and duties of the position under MCL 62.2(1); MSA 5.1216(1). The county board of commissioners does not supervise or control the village department head, nor vice-versa, since the county and village are separate and distinct units of local government. Under these circumstances, there is no subordinate or supervisory relationship between the offices of county commissioner and head of the village department of public works. Thus, the first two incompatibility criteria under section 1(b) of the Act do not render the dual positions incompatible.

The remaining question is whether the dual office holding constitutes a "breach of duty" under section 1(b)(iii) of the Act as a result of the village annexation petition pending before the county board of commissioners. The breach of duty provision of the Act was recently analyzed in *Macomb County Prosecutor v Murphy*, 233 Mich App 372, 380-382; 592 NW2d 745 (1999), lv gtd 462 Mich 854; 613 NW 2d 718 (2000), where the court stated that:

The Attorney General has developed the following standard for determining when a breach of public duty exists:

A breach of duty arises when a public official holding dual offices cannot protect, advance, or promote the interest of both offices simultaneously. A public office is a public trust, and the courts have imposed a fiduciary standard upon public officials that requires disinterested conduct. . . .

It is well established that a breach of duty creating an incompatibility results when a person holding dual public offices is placed at opposite sides of a contract. An incompatibility can also result out of a non-contractual matter, such as when one office has to pass upon a matter affecting the other office.

An opinion of the Attorney General, while not precedentially binding, can be persuasive authority. In this instance, we agree with the Attorney General's analysis and adopt it as our own. The purpose of the incompatible offices act is to preclude any suggestion that a public official is acting out of self-interest or for hidden motives because of a conflict between his two offices. This purpose is served by finding a breach of duty when an issue arises in which one constituency's interests may conflict with the interests of a separate constituency represented by the official. By preventing such situations, the public is assured that its officials do not suffer from divided loyalties. [Citations omitted.]

In analyzing the Act's breach of duty provision, one must examine whether there are conflicting interests between the village constituency and the county constituency such that the public official holding dual offices "cannot protect, advance, or promote the interest of both offices simultaneously." To do this, one must scrutinize the annexation petition process. Section 4 of the Home Rule Village Act, 1909 PA 278, MCL 78.1 *et seq*; MSA 5.1511 *et seq*, addresses the review of village annexation petitions by a county board of commissioners. Under section 4, the board simply determines whether the annexation petition complies with the requirements of the Home Rule Village Act. If the annexation petition does not comply with the statute, then the annexation process ends. If the petition conforms to the statute, then the county board of commissioners submits the annexation question to the qualified electors of the district to be affected. The limited scope of the question before the county board of commissioners is spelled out in section 4 of the Home Rule Village Act as follows:

[A]nd if, before final action thereon, it shall appear to said board or a majority thereof that said petition or the signing thereof does not conform to this act, or

contains incorrect statements, no further proceedings pursuant to said petition shall be had, but, if it shall appear that said petition conforms in all respects to the provisions of this act, and that the statements contained therein are true, said board of supervisors<sup>1</sup> shall, by resolution, provide that the question of making the proposed incorporation, consolidation or change of boundaries shall be submitted to the qualified electors of the district to be affected at the next general election, . . . . After the adoption of such resolution neither the sufficiency nor legality of the petition on which it is based may be questioned in any proceeding.

The narrow scope of review by a county board of commissioners is confirmed in *Bray v Stewart*, 239 Mich 340; 214 NW 193 (1927). There the plaintiff challenged a village incorporation under the Home Rule Village Act. The challenge included the contention that the statute was invalid because under section 4 the county board of supervisors had no discretion in reviewing the incorporation petition. In finding that the county board lacked any discretion in reviewing the petition, the court stated as follows:

2. Lack of Discretion in Board of Supervisors. It is urged that the entire act is invalid because it makes it obligatory on the board of supervisors to order an election if the petition presented meets the requirements of the act.

Section 2 provides for a petition, signed by at least 25 qualified electors residing in each of the townships in which the territory proposed to be incorporated is situate. Section 4 provides that the petition must be filed with the clerk of the board at least 30 days before action is taken thereon, and, if the petition is found to conform to the statute, the board shall, by resolution, provide for its submission, as before stated.

*The duty devolving on the board of supervisors is purely ministerial. They are not permitted to exercise any judgment except to determine whether the requirements of the statute relative to the petition have been complied with.*

239 Mich at 345. (Emphasis added.)

Under the facts presented by your question, the county board of commissioners, in reviewing the annexation petition, does not decide whether the village boundaries should be expanded, thereby potentially increasing the number of connections to the village water and sewer lines under the management of the village's department of public works. Because the board is not entitled to exercise any judgment in passing on the annexation petition except to determine statutory compliance, a board member who also serves as head of the village's department of public works could protect, advance and promote the interest of both offices simultaneously. The narrow question before the board of commissioners is whether the annexation petition complies with the Home Rule Village Act. This limited question does not implicate any competing interests between the county constituency and the village constituency and, thus, does not give rise to a breach of duty under section 1(b)(iii) of the Act.

It is my opinion, therefore, that the Incompatible Public Offices Act does not prohibit a person from simultaneously serving as a member of a county board of commissioners and as head of a village's department of public works in the same county when a petition to annex land to the village has been submitted to the county board of commissioners for review and approval.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>1</sup>All references to county supervisors or county boards of supervisors shall be deemed to mean county commissioners and county boards of commissioners. MCL 46.416; MSA 5.359(16).

**AMBULANCES: Jurisdiction of medical control authority over emergency medical services****EMERGENCIES:****HOSPITALS:****PUBLIC HEALTH:**

**An emergency medical service, when transporting a person from one health facility to another, must follow protocols adopted by a local medical control authority established under Part 209 of the Public Health Code, regardless of the transported person's status as an emergency or non-emergency patient.**

Opinion No. 7072

January 18, 2001

Honorable Michael Switalski  
State Representative  
The Capitol  
Lansing, Michigan 48913

You have asked if an emergency medical service, when transporting a non-emergency patient from one health facility to another, must follow protocols adopted by a local medical control authority established under Part 209 of Michigan's Public Health Code.

Information supplied with your request indicates that a local medical control authority has adopted a guideline governing inter-facility transfers of patients by an emergency medical service. The guideline establishes detailed procedures to be followed by emergency medical services in transferring non-emergency patients.

The Public Health Code (Code), 1978 PA 368, MCL 333.1101 *et seq*; MSA 14.15 (1101) *et seq*, protects and promotes the public health and provides for the regulation of health services and activities. Part 209, titled Emergency Medical Services, regulates the transportation of patients between health facilities. Code section 20918 *et seq* authorizes establishment of local medical control authorities as part of a statewide emergency medical services system "to supervise emergency medical services" in their designated geographical regions. In *DenBoer v Lakola Medical Control Authority*, 240 Mich App 498, 501; 618 NW2d 8 (2000), the Court of Appeals upheld a local medical control authority's decision permanently suspending a paramedic's privilege to practice "pre-hospital (i.e., paramedic) care" within the medical control authority region and summarized the powers of a local medical control authority as follows:

The statewide emergency medical services system is governed by local MCAs [medical control authorities], which are organized and administered by local hospitals within each geographic region. Each person licensed under the . . . act is accountable to their local MCA in the provision of emergency medical services. . . . The MCAs have statutory power and authority to supervise emergency medical services, and to govern the practice of licensed medical services personnel.

240 Mich App at 500-501. (Statutory citations omitted.)

Your question involves a non-emergency patient who is transferred from one health facility to another health facility. Code section 20908(1) defines a "[n]on emergency patient" as one not in imminent danger of loss of life or significant health impairment. An individual who meets this definition may nevertheless need transportation by vehicles and personnel trained and equipped to provide life support services. Such a patient may, and often does, require emergency medical services while being transported between health care facilities.

The term "emergency medical services" is defined as follows:

"Emergency medical services" means the emergency medical services personnel, ambulances, nontransport prehospital life support vehicles, aircraft transport vehicles, medical first response vehicles, and equipment required for transport or treatment of an individual requiring medical first response life support, basic life support, limited advanced life support, or advanced life support.

Section 20904(4).

As defined by the Code, the term "emergency medical services" includes vehicles, personnel, and equipment required to transport or treat any individual requiring life support services, regardless of the transported person's status as an emergency or non-emergency patient.

Code section 20919(1) requires local medical control authorities to establish written protocols for emergency medical services personnel.

(1) A local medical control authority shall establish written protocols for the practice of life support agencies and licensed emergency medical services personnel within its region. The protocols shall be developed and adopted in accordance with procedures established by the department and shall include all of the following:

(a) The acts, tasks, or functions that may be performed by each type of emergency medical services personnel licensed under this part.

(b) Medical protocols to ensure the appropriate dispatching of a life support agency based upon medical need and the capability of the emergency medical services system.

The term "protocol" is defined by the Code as "a patient care standard, standing orders, policy, or procedure for providing emergency medical services that is established by a medical control authority and approved by the department<sup>1</sup> under section 20919." Section 20908(9). Thus, local medical control authorities must adopt protocols governing the "acts, tasks or functions that may be performed by . . . emergency medical services personnel." Nothing in the Code, however, limits the application of these protocols to emergency personnel only when they are engaged in the transport of emergency patients.

An ambulance operation, defined in Code section 20902(5) as a provider of "emergency medical services and patient transport," must "[o]perate under the direction of" the medical control authority with jurisdiction over the ambulance operation. Section 20921(1)(c). Life support agencies, including emergency medical services personnel, must adhere to and operate in accordance with duly adopted and approved protocols governing the use of emergency medical services. See Code sections 20918(6), 20920(5), 20941(3), 20956(1).

In addition, section 1867 of Title XVIII of the Social Security Act, 42 USC 1395 *et seq.* imposes special responsibilities on Medicare participating hospitals in emergency cases. The so-called Anti-Dumping Act (42 USC 1395dd) and its supporting regulations (42 CFR 489.24) prohibit hospitals that participate in the Medicare program from transferring patients with an emergency medical condition before certain steps are taken, including medical screening, stabilization treatment, and providing medically appropriate life support measures during the transfer. Neither this act nor its supporting regulations conflict with Part 209 of the Public Health Code or preempt a medical control authority from adopting protocols governing the transport of an individual from one health facility to another.

It is my opinion, therefore, that an emergency medical service, when transporting a person from one health facility to another, must follow protocols adopted by a local

<sup>1</sup>The term "department" means the Michigan Department of Consumer & Industry Services. See section 1104(5) of the Code; Executive Order 1996-1 and Executive Order 1996-2.

medical control authority established under Part 209 of the Public Health Code, regardless of the transported person's status as an emergency or non-emergency patient.

JENNIFER M. GRANHOLM  
*Attorney General*

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**COUNTIES: Application of Open Meetings Act to county concealed weapons licensing board**

**FIREARMS:**

**LICENSES AND PERMITS: Prosecutor designating sheriff's employee to represent prosecutor on county concealed weapons licensing board**

**OPEN MEETINGS ACT:**

**PROSECUTING ATTORNEYS:**

**PUBLIC BODY:**

**SHERIFFS:**

**A county concealed weapons licensing board is a "public body" subject to the Open Meetings Act.**

**A county prosecutor may not designate a member of a county sheriff's staff to serve in place of the prosecutor on a county concealed weapons licensing board.**

Opinion No. 7073

January 23, 2001

Honorable Ken Bradstreet  
State Representative  
The Capitol  
Lansing, MI 48909-7514

You have asked two questions concerning county concealed weapons licensing boards.

Your first question asks whether a county concealed weapons licensing board is a "public body" subject to the Open Meetings Act.

The Open Meetings Act (OMA), 1976 PA 267, MCL 15.261 *et seq*; MSA 4.1800(11) *et seq*, requires a public body to open its meetings to the public subject to limited exceptions. OAG, 1981-1982, No 6053, p 616 (April 13, 1982). Its purpose is "to promote a new era in governmental accountability" and to foster "openness in government as a means of promoting responsible decision making." *Booth Newspapers, Inc v Univ of Michigan Bd of Regents*, 444 Mich 211, 222-223; 507 NW2d 422 (1993). The act is to be broadly interpreted and its exemptions strictly construed. *Id.*, 223. The OMA defines a "[p]ublic body" to include "any state or local legislative or governing body . . . which is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary

authority or perform a governmental or proprietary function." Section 2(a). OAG, 1997-1998, No 6935, p 18 (April 2, 1997).

The Firearms Act, 1927 PA 372, MCL 28.421 *et seq*; MSA 28.91 *et seq*, regulates and licenses the possessing and carrying of certain firearms and prohibits the carrying of certain firearms without a license. Section 6(1) of this act, which creates county concealed weapons licensing boards, provides for their membership as follows:

The prosecuting attorney, the sheriff, and the director of the department of state police, or their respective authorized deputies, shall constitute boards exclusively authorized to issue a license to an applicant residing within their respective counties, to carry a pistol concealed on the person and to carry a pistol, whether concealed or otherwise, in a vehicle operated or occupied by the applicant.<sup>1</sup>

The nature of a county concealed weapons licensing board was considered by the Michigan Court of Appeals in *Bay County Concealed Weapons Licensing Bd v Gasta*, 96 Mich App 784, 790; 293 NW2d 707 (1980). There the court observed that the Legislature had created a board consisting of law enforcement officials and conferred upon it "exclusive authority to issue, deny and revoke permits for concealed weapons" to protect the "unsuspecting public" against the danger of concealed weapons in light of the "experience and knowledge of community needs possessed by these local officials." *Id.*, 789-790. A county concealed weapons licensing board exercises an "important" governmental authority when it acts to grant, deny or revoke a concealed weapons permit. See *Booth, supra*, 444 Mich at 225.<sup>2</sup>

It is my opinion, therefore, in answer to your first question, that a county concealed weapons licensing board is a "public body" subject to the Open Meetings Act.

Your second question asks whether a county prosecutor may designate a member of a county sheriff's staff to serve in place of the prosecutor on a county concealed weapons licensing board.

Section 6(1) of the Firearms Act, which creates and provides membership of a county concealed weapons licensing boards, provides that "[t]he prosecuting attorney, the sheriff, and the director of the department of state police, *or their respective authorized deputies*, shall constitute [the] board[ ]." (Emphasis added.)

The authority to delegate the statutory responsibility of membership on a county concealed weapons licensing board is limited by the Legislature to the statute's specified members *or their deputies*. In OAG, 1987-1988, No 6556, pp 455, 457 (December 28, 1988), it was concluded that:

To be a deputy one must have the authority to act on behalf of one's principal in all matters. An investigator, although a certified law enforcement officer, does not have the authority to act on behalf of the prosecuting attorney in all matters. The only persons who may be authorized to act on behalf of the prosecuting attorney in all matters are assistant prosecuting attorneys.

Thus, a county prosecuting attorney may not appoint an investigator, even though a fully certified police officer, to serve as the prosecuting attorney's authorized deputy on a county concealed weapons licensing board. *Id.*, 457. By the same reasoning, it

<sup>1</sup>Carrying a concealed weapon without a license is punishable as a felony. MCL 750.227; MSA 28.424; OAG, 1983-1984, No 6223, p 300 (May 4, 1984).

<sup>2</sup>On January 2, 2001, the Governor signed into law 2000 PA 381, which amends the Firearms Act. Nothing in the Firearms Act or amendatory 2000 PA 381, however, indicates that the Legislature intended to exempt county concealed weapons licensing boards from the OMA. On the contrary, 2000 PA 381 adds new language authorizing a board to grant a "closed session" when it considers an applicant's mental health history. Section 5b(1)(d).

follows that a county prosecutor may not appoint a member of a county sheriff's staff to serve in the prosecutor's place on a county concealed weapons licensing board.

It is my opinion, therefore, in answer to your second question, that a county prosecutor may not designate a member of a county sheriff's staff to serve in place of the prosecutor on a county concealed weapons licensing board.

JENNIFER M. GRANHOLM  
*Attorney General*

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**INSURANCE: Conflict between section 1905(3) of the Insurance Code and section 3903(c) of the federal Liability Risk Retention Act of 1986**

**LICENSES AND PERMITS: The residency requirement of section 1905(3) of the Insurance Code, as applied to agents and brokers for insurance purchasing groups under section 1835(3) of the Code, is preempted by section 3903(c) of the federal Liability Risk Retention Act of 1986**

**PREEMPTION, FEDERAL:**

**The residency requirement of section 1905(3) of the Insurance Code, as applied to agents and brokers for insurance purchasing groups under section 1835(3) of the Code, is preempted by section 3903(c) of the federal Liability Risk Retention Act of 1986.**

Opinion No. 7074

January 24, 2001

Frank M. Fitzgerald, Commissioner  
Office of Financial and Insurance Services  
Department of Consumer and Industry Services  
P.O. Box 30220  
Lansing, MI 48909-7720

You have asked whether the residency requirement of section 1905(3) of the Insurance Code, as applied to agents and brokers for insurance purchasing groups by section 1835(3) of the Insurance Code, is preempted by section 3903(c) of the federal Liability Risk Retention Act of 1986.

The federal Liability Risk Retention Act of 1986 (LRRRA), 15 USC 3901 *et seq.*, was enacted by Congress in response to what it perceived as a critical shortage of commercial liability insurance. The LRRRA exempts insurance purchasing groups<sup>1</sup> from certain state-imposed restrictions that Congress determined were preventing these groups from gaining the advantages of collective purchasing. It was argued that these advantages, e.g., better loss and expense experience, could help increase the availability of liability insurance. HR Rep No 99-865, 99th Cong, 2d Sess, at 7-8 (1986) *reprinted in part in* 1986 USCCAN 5303-5305.

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<sup>1</sup>An "insurance purchasing group" is an organization formed by members with similar or related potential liability in connection with their related, similar, or common business, trade, product, services, premises, or operations. One of its purposes is to purchase liability coverage on a group basis for its members. LRRRA, section 3901(5). See also Code, section 1801(g).

Section 3903(c) of the LRRRA provides that:

A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

Thus, the LRRRA authorizes states to require that agents or brokers for insurance purchasing groups be licensed by the state but expressly prohibits any state requirements that discriminate against a nonresident agent or broker.

The insurance business in Michigan is regulated by the Insurance Code of 1956, 1956 PA 218, MCL 500.100 *et seq*; MSA 24.1100 *et seq*. Chapter 12 of the Code addresses the qualifications and licensure of agents for insurance companies authorized to do business in Michigan. Because this chapter explicitly authorizes licensure of both residents and nonresidents, it presents no apparent conflict with section 3903(c) of the LRRRA.

Chapter 19 of the Code governs the sale of a class of insurance called "surplus lines insurance," defined as "insurance in this state procured from or continued or renewed with an unauthorized insurer . . . whether effected by mail or otherwise." Section 1903(1)(d). An "[u]nauthorized" insurer, in turn, is an insurer not authorized by the state insurance commissioner to transact insurance business in Michigan. Section 108(2). Typically, surplus lines insurance provides unusual coverages not readily available from authorized insurers. The stated purpose of chapter 19 of the Code is to protect persons seeking insurance while still "[p]ermitt[ing] stable and reputable insurers to write surplus lines insurance in this state." Section 1902(b). To this end, section 1905(1) provides that a person may not "solicit insurance, bind coverage, or in any other manner act as an agent or broker in the transaction of surplus lines insurance unless licensed under" chapter 19 of the Code. Significantly, however, section 1905(3) restricts the availability of surplus lines licensure to persons who are residents of the State, providing in pertinent part that "[a] person licensed as a resident agent in this state may obtain a surplus lines license . . . ." (Emphasis added.)

Chapter 18 of the Code regulates the practices of insurance purchasing groups and risk retention groups<sup>2</sup> in Michigan. Section 1835 provides:

(1) A person, firm, association, or corporation shall not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless the person, firm, association, or corporation is licensed under chapter 12 or chapter 19.

(2) A person, firm, association, or corporation shall not act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in this state unless the person, firm, association, or corporation is licensed under chapter 12.

(3) A person, firm, association, or corporation shall not act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group doing business in this state unless the person, firm, association, or corporation is licensed under chapter 19.

(4) For the purpose of acting as an agent or broker for a risk retention group or purchasing group under subsections (1) or (2), the requirement of residence in

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<sup>2</sup>Like an insurance purchasing group, a "risk retention group" is an organization formed by members with similar or related potential liability in connection with their related, similar, or common business, trade, product, services, premises, or operations. However, instead of simply purchasing liability coverage for its members, a risk retention group functions as an insurer, spreading the risk of loss among its members. See Code, section 1801(h).

this state shall not apply. However, licensure of a nonresident under chapter 19 shall be for the limited purpose of soliciting, negotiating, or procuring liability insurance from a risk retention group not chartered in this state.

Thus, pursuant to section 1835, an agent or broker procuring insurance for a purchasing group in Michigan must be licensed under either chapter 12 or chapter 19. More specifically, if the insurance is procured from an authorized insurer or a risk retention group chartered in Michigan, licensure must be obtained under chapter 12. Section 1835(2). Since chapter 12 expressly authorizes licensure of both residents and nonresidents, this requirement does not conflict with 15 USC 3903(c). If the insurance in question is to be procured from an insurer *not* chartered in or authorized to do business in Michigan, however, a license must be obtained under chapter 19 of the Code. Section 1835(3). Because the latter chapter imposes a residency requirement, it does directly conflict with 15 USC 3903(c), at least when applied to agents and brokers for insurance purchasing groups.

Section 1835(4) of the Code creates a limited exception to the residency requirement of section 1905(3) and may well represent an attempt by the Michigan Legislature to avoid a direct conflict with 15 USC 3903(c). Regrettably, however, the exception in subsection (4) of that section is specifically limited to subsections (1) and (2) of section 1835. Subsection (3) is omitted from this exception and thus facially requires persons procuring insurance for purchasing groups from insurers not authorized to do business in Michigan to be a Michigan resident licensed under Chapter 19.

The federal preemption doctrine has its origin in the Supremacy Clause of article VI, cl 2, of the United States Constitution. *Ryan v Brunswick Corp*, 454 Mich 20, 27; 557 NW2d 541 (1997). Whether a federal statute preempts state law is a question of congressional intent. *Hawaiian Airlines, Inc v Norris*, 512 US 246, 252; 114 S Ct 2239; 129 L Ed 2d 203 (1994). "However, there is a strong presumption against preemption of state law, and preemption will be found only where it is the clear and unequivocal intent of Congress." *Martinez v Ford Motor Co.*, 224 Mich App 247, 252; 568 NW2d 396 (1997). The analysis of preemption issues "must be guided by respect for the separate spheres of governmental authority preserved in our federalist system." *Alessi v Raybestos-Manhattan Inc*, 451 US 504, 522; 101 S Ct 1895; 68 L Ed 2d 402 (1981). Nevertheless, it is clear that under the Supremacy Clause of the United States Constitution, federal law preempts state law where Congress so intends. *Fidelity Federal Savings & Loan Ass'n v de la Cuesta*, 458 US 141, 152; 102 S Ct 3014; 73 L Ed 2d 664 (1982), *Ryan*, 454 Mich at 27.

Here, the intent of Congress is manifest. In section 3903(c) of the LRRA, Congress has authorized states to require licensure of persons acting as agents or brokers for purchasing groups, but has explicitly provided that "a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker." 15 USC 3903(c). Michigan is, therefore, precluded from imposing the residency requirement contained in section 1905(3) of the Insurance Code upon agents and brokers for insurance purchasing groups subject to the federal act.

Section 3903(c) of the LRRA also expressly affirms the traditional authority of the states to require licensure of agents and brokers. Therefore, except for the preemption noted above, the Commissioner's authority to enforce the Insurance Code<sup>3</sup> is unaffected by section 3903(c) of the LRRA. Accordingly, a nonresident who acts or aids in any manner in soliciting, negotiating, or procuring surplus lines insurance on behalf of a purchasing group doing business in this state must first obtain a surplus lines license from the Commissioner under chapter 19. Such a nonresident must satisfy all of the requirements for licensure under chapter 19,

<sup>3</sup>Executive Order No. 2000-4 transferred all "authority, powers, duties, functions and responsibilities" of the Commissioner of Insurance to the Commissioner of the Office of Financial and Insurance Services.

except the residency requirement. Licensure under chapter 19 of a nonresident under these circumstances only authorizes the nonresident to act as an agent or broker in obtaining surplus lines coverage for a purchasing group.

It is my opinion, therefore, that the residency requirement of section 1905(3) of the Insurance Code, as applied to agents and brokers for insurance purchasing groups under section 1835(3) of the Code, is preempted by section 3903(c) of the federal Liability Risk Retention Act of 1986.

JENNIFER M. GRANHOLM  
*Attorney General*

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**ASSESSMENTS: Township assessing university lands for fire protection services**

**CONSTITUTIONAL LAW: Legislature's power to subject university lands to special assessments**

**REAL ESTATE:**

**STATE LANDS:**

**TOWNSHIPS:**

**Lands owned by the Michigan State University Board of Trustees cannot be specially assessed by a municipality for fire protection services under 1951 PA 33.**

**The Legislature may, without offending Const 1963, art 8, § 5, amend 1951 PA 33 to subject lands owned by the Michigan State University Board of Trustees to special assessments.**

Opinion No. 7075

February 7, 2001

Honorable Jerry Vander Roest  
State Representative  
The Capitol  
Lansing, MI

You have asked whether lands owned by the Michigan State University Board of Trustees can be specially assessed by a township for fire protection services under 1951 PA 33.

1951 PA 33, MCL 41.801 *et seq*; MSA 5.2640(1) *et seq*, authorizes townships to provide police and fire protection and to levy and collect special assessments to defray the cost of such services. Your question asks if Michigan State University lands are subject to special assessments levied under this statute.

The Michigan State University Board of Trustees is a constitutional body corporate. Const 1963, art 8, § 5. The university's lands, buildings and equipment controlled by its board of trustees "are public property, owned by the State of Michigan." See *Lucking v People*, 320 Mich 495, 503; 31 NW2d 707 (1948). By constitution and statute, the lands remain under the exclusive control and management of the board of trustees. Const 1963, art 8, § 5, *supra*; 1909 PA 269,

MCL 390.106; MSA 15.1126; *Michigan United Conservation Clubs v Bd of Trustees of Michigan State Univ*, 172 Mich App 189, 191-192; 431 NW2d 217 (1988).

The law is well-settled that lands owned by the state are exempt from special assessments unless assessment is expressly authorized by legislation. *People ex rel Auditor General v Ingalls*, 238 Mich 423, 425; 213 NW 713 (1927); 2 OAG, 1958, No 3099, p 11, 13 (January 13, 1958); OAG, 1981-1982, No 5967, p 342 (August 27, 1981), and OAG, 1999-2000, No 7042, p 85 (February 18, 2000). 1951 PA 33 includes no language subjecting state university lands<sup>1</sup> to special assessment for fire protection purposes.

It is my opinion, therefore, that lands owned by the Michigan State University Board of Trustees cannot be specially assessed by a municipality for fire protection services under 1951 PA 33.

You have also asked whether the Legislature may, without offending Const 1963, art 8, § 5, amend 1951 PA 33 to subject lands owned by the Michigan State University Board of Trustees to special assessments.

Const 1963, art 8, § 5, places the entire control and management of the universities' property and affairs in their governing boards and provides for autonomy in the educational sphere.

The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. *Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds.*<sup>2</sup> Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law. [Emphasis added.]

The constitutional autonomy granted to the three named universities in Const 1963, art 8, § 5, primarily concerns educational and financial matters. *Federated Publications, Inc v Michigan State Univ Bd of Trustees*, 460 Mich 75, 87; 594 NW2d 491 (1999). This autonomy, however, does not exempt these institutions from the realm of state law or allow them to thwart the public policy of the state. *Regents of the Univ of Michigan v Employment Relations Comm*, 389 Mich 96, 108; 204 NW2d 21 (1973).

In 1 OAG, 1955, No 2227, p 721 (December 9, 1955), a question was raised whether certain legislation was inconsistent with the constitutional delegation of authority to the State Board of Agriculture as the controlling body of Michigan State University. After surveying case law that discussed the powers of the Legislature vis-a-vis the State Board, it was concluded that the appropriate test was one of exclusiveness, p 727:

<sup>1</sup>If state-owned real property located within a municipality includes buildings, the municipality may be able to seek reimbursement from the state for fire protection services provided to such buildings. See 1977 PA 289, MCL 141.951 *et seq*; MSA 4.208(1) *et seq*.

<sup>2</sup>The text of this sentence is virtually the same as that set forth in Const 1850, art 13, § 8, and Const 1908, art 11, § 5, with respect to the board of regents and Const 1908, art 11, § 8, with respect to the then state board of agriculture with respect to the "agricultural college," now Michigan State University.

The only possible way to reconcile the exclusive constitutional power of control given the State Board of Agriculture and the general legislative power of the Legislature is, in our opinion, to apply the test we have hereinbefore described, that is, the test of exclusiveness. To give the Legislature law making power in matters dealing exclusively with the operation of . . . [Michigan State] University would be to render meaningless the provisions of [Const 1908] Article XI, section 8. To hold that the Legislature did not have powers in matters of general law not relating exclusively to the operation of the University would be to make the campus of the Michigan State University an island exempt from all law other than that formulated and applied by the State Board of Agriculture.

Clearly, neither was the intent of the Constitution. Such a division of authority is not new under our Constitution. We have it in Article XI, section 5, with reference to the Regents of the University of Michigan. We find it in Article VI, section 22, with reference to the Civil Service Commission. The rights and powers can be reconciled. They must be reconciled. We conclude that this solution does reconcile them.

The exclusive power to authorize the imposition of taxes and special assessments is vested in the Legislature pursuant to Const 1963, arts 4 and 9. No provision of the constitution precludes the Legislature from subjecting state-owned lands under the supervision of a governing body named in Const 1963, art 8, § 5, to the imposition of taxes and special assessments.

It is my opinion, therefore, in answer to your second question, that the Legislature may, without offending Const 1963, art 8, § 5, amend 1951 PA 33 to subject lands owned by the Michigan State University Board of Trustees to special assessments.

JENNIFER M. GRANHOLM  
*Attorney General*

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**APPROPRIATIONS: Receipt of additional compensation by county register of deeds for serving as county grant administrator****COUNTIES:****OFFICERS AND EMPLOYEES:****PUBLIC MONEY:****REGISTER OF DEEDS:**

**A county register of deeds, if authorized by the county board of commissioners, may receive additional compensation for serving as the appointed county grant administrator for the county survey and remonumentation program.**

Opinion No. 7076

March 2, 2001

Mr. Larry J. Burdick  
Isabella County Prosecuting Attorney  
200 North Main Street  
Mt. Pleasant, MI 48858

You have asked if a county register of deeds, if authorized by the county board of commissioners, may receive additional compensation for serving as the appointed county grant administrator for the county survey and remonumentation program.

The office of county register of deeds is an elective office. Const 1963, art 7, § 4, states that the powers and duties of the office are those that "shall be provided by law."

1919 PA 237, MCL 45.401 *et seq*; MSA 5.911 *et seq*, authorizes the payment of salaries, in lieu of fees, to county registers of deeds and other county officers. Section 1(1)<sup>1</sup> authorizes a county board of commissioners to compensate the register of deeds with salary as the board considers proper. A county register of deeds who receives a salary authorized under 1919 PA 237 may not retain any of the fees collected by his or her office. OAG, 1963-1964, No 4270, p 306 (March 2, 1964). The register must remit all fees collected by his or her office on a monthly basis to the county treasurer. 1919 PA 237, section 2.

The State Survey and Remonumentation Act (Survey Act), 1990 PA 345, MCL 54.261 *et seq*; MSA 5.1035(261) *et seq*, authorizes a county monumentation program providing for the monumentation<sup>2</sup> or remonumentation of all property controlling corners originally established by the United States land surveys. Sections 8(1) and 14(1)(b) of the Survey Act require counties to adopt county plans as a prerequisite to receiving state grants.

Sec. 8. (1) Each county shall establish a county monumentation and remonumentation plan. Not later than 1 year after the effective date of this act, the commission<sup>3</sup> shall create and distribute a model county plan that may be

<sup>1</sup>Some counties may have a county officers compensation commission. See section 1(2) of 1919 PA 237.

<sup>2</sup>The monumentation program provides, among other things, for the proper marking (monumentation) of all property controlling corners. These corners were originally established by the United States in surveys of the public domain, before conveyance of the lands by patent to private individuals. These original corners control the proper description or location of all parcels of land in Michigan. The program provides for the proper monumentation of these corners, including the substantial number of them that have been "lost" or "obliterated."

<sup>3</sup>Executive Order No 1996-2 abolishes the commission. The powers and duties of the commission were transferred to the Director, Michigan Department of Consumer and Industry Services. MCL 445.2001; MSA 3.29(224).

adopted by a county with any changes appropriate for that county. . . .

\* \* \*

Sec. 14. (1) The commission shall not make a grant . . . [to a county or counties] unless all of the following conditions are met:

\* \* \*

(b) The applicant has established a county plan or a multicounty plan that has been approved by the commission on or before December 31 of the calendar year immediately preceding the year in which the grant is made.

The county plan adopted by each county and approved by the State Commission or Director requires the county board of commissioners to appoint a county grant administrator. This is:

[A] person appointed by the County Board of Commissioners as the individual responsible for completing and submitting the annual Application for a Survey and Monumentation Grant to the State of Michigan, and the administering of the approved annual grant. . . . [Model County Plan, Section II.]

This plan has, with slight modifications, been adopted by each of Michigan's 83 counties.

The county grant administrator's duties include: (a) annually submitting a grant application and supporting documents to the Commission by December 31; (b) selecting monumentation surveyors in compliance with qualification-based selection (QBS) as set forth in House Concurrent Resolution 206 (June 1987); (c) submitting proposed county/monumentation-surveyor contracts to the board of county commissioners for its approval and its authorization for execution; (d) recommending payment to the monumentation surveyor as provided by the contract; and (e) submitting other documentation as required by the Commission. Model County Plan, Section IV.

My staff is advised that in some counties, the county board of commissioners has appointed a county register of deeds to also serve as the county grant administrator. If a county register of deeds accepts the appointment,<sup>4</sup> there is no constitutional or statutory bar to the county board of commissioners providing reasonable compensation to the appointee for services rendered. The salary fixed for the register of deeds in section 1(1) of 1919 PA 237 is "compensation in full for all services performed by the . . . register of deeds." But services rendered as a county grant administrator are not rendered as a county register of deeds. The compensation provided to a county grant administrator is likewise not for services rendered as a county register of deeds. A review of the many statutory duties of the office of register of deeds discloses no duties concerning a county monumentation program. Since the duties imposed upon the register of deeds as county grant administrator are foreign to the office of register of deeds, the performance of grant administration duties may be separately compensated. See *Grosbeck v Auditor General*, 216 Mich 243, 250; 184 NW 870 (1921), holding that state officers performing duties foreign to their respective offices are permitted to receive compensation for those duties, in addition to their constitutionally prescribed salaries for performing the duties of their respective offices.

1851 PA 156, MCL 46.1 *et seq*; MSA 5.321 *et seq*, defines the powers and duties of county boards of commissioners. Section 11(g) of this act expressly authorizes county boards of commissioners to: "Prescribe and fix the salaries and compensation of employees of the county if not fixed by law. . . ." These prescribed compensation payments need not be made from a county's general funds. The payments may be paid from a line item in the county monumentation budget approved by the state as

<sup>4</sup>The county board of commissioners has no authority to impose upon the register of deeds duties or responsibilities that are in addition to those imposed by law. OAG, 1975-1976, No 4924, p 270 (January 27, 1976).

part of the annual monumentation grant. Payment of this compensation is analogous to compensation lawfully paid to a county treasurer for services rendered as a member of the county tax commission (OAG, 1933-1934, p 288 (July 13, 1933)), and to compensation lawfully paid to a county register of deeds for services rendered as a county abstractor, thus performing additional duties not germane to the office of register of deeds (OAG, 1945-1946, 0-4237, p 558 (December 27, 1945)).

It is my opinion, therefore, that a county register of deeds, if authorized by the county board of commissioners, may receive additional compensation for serving as the appointed county grant administrator for the county survey and remonumentation program.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CHILDREN AND MINORS: Use of mifepristone (RU-486) as constituting an abortion****HOSPITALS:****PHYSICIANS AND SURGEONS:****PUBLIC HEALTH:****PUBLIC MONEY:**

**The intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 109a of the Social Welfare Act.**

**The intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under the Parental Rights Restoration Act.**

**The intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 17015 of the Public Health Code.**

Opinion No. 7077

March 13, 2001

Mr. James K. Haveman, Jr., Director  
Department of Community Health  
Lewis Cass Building  
Lansing, MI 48913

You have asked whether the administration of the drug mifepristone, sometimes called RU-486, to terminate a woman's pregnancy constitutes an "abortion" under three statutes that regulate abortion in Michigan.

On September 28, 2000, the U.S. Food and Drug Administration (FDA) approved the drug mifepristone (trade name Mifeprex), to be used with misoprostol, a prostaglandin, for the medical termination of a confirmed early intrauterine pregnancy. 21 CFR 314.520. The FDA defines "early" pregnancy as one being 49 days or less, counting from the beginning of the last menstrual period. Under the terms of the FDA's approval, mifepristone will be distributed to physicians who can accurately determine the duration of a patient's pregnancy and detect an ectopic (or tubal) pregnancy. Physicians who prescribe mifepristone must also be able to provide surgical intervention in cases of incomplete abortion or severe bleeding--or they must have made plans in advance to provide such care through others. *Id.*

Your first question asks if the use of mifepristone to terminate a woman's pregnancy constitutes an "abortion" under section 109 of the Social Welfare Act.

The Social Welfare Act (Act), 1939 PA 280, MCL 400.1 *et seq*; MSA 16.401 *et seq.* is an act to provide hospital and medical care for poor persons. Section 109a specifies that "an abortion shall not be a service provided with public funds to a recipient of welfare benefits . . . unless the abortion is necessary to save the life of the mother." Section 109e(1)(a) of the Act defines the term "abortion" as follows:

"Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

The drug mifepristone, when intentionally used to terminate a woman's pregnancy for a purpose other than the limited purposes specified above and not as a contraceptive, clearly falls within the Social Welfare Act's definition of "abortion." Courts must adhere to those definitions supplied by statute. *Arrigo's Fleet Service Inc v Michigan*, 125 Mich App 790, 792; 337 NW2d (1983) (citations omitted). Clear and unambiguous statutory language must be applied by the court as written according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996); *Bannan v City of Saginaw*, 420 Mich 376, 390; 362 NW2d 668 (1984), *reh den* 421 Mich 1202 (1985).

It is my opinion, therefore, in answer to your first question, that the intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 109a of the Social Welfare Act.

Your second question asks if the use of mifepristone to terminate a woman's pregnancy constitutes an "abortion" under the Parental Rights Restoration Act.

The Parental Rights Restoration Act (PRRA), 1990 PA 211, MCL 722.901 *et seq*; MSA 25.248(101) *et seq*, is a voter-initiated act requiring, with limited exceptions, parental consent for abortions performed on unemancipated minors. Section 2(a) of the PRRA defines the term "abortion" as follows:

"Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

The drug mifepristone, when intentionally used to terminate a woman's pregnancy for a purpose other than the limited purposes specified above and not as a contraceptive, clearly falls within the PRRA's definition of "abortion."

It is my opinion, therefore, in answer to your second question, that the intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under the Parental Rights Restoration Act.

Your third question asks if the use of mifepristone to terminate a woman's pregnancy constitutes an "abortion" under section 17015 of the Public Health Code.

The Public Health Code (Code), 1978 PA 368, MCL 333.1101 *et seq*; MSA 14.15(1101) *et seq*, is an act to protect the public health and to regulate occupations, facilities, and agencies affecting the public health. Section 17015 of the Code, added by 1993 PA 133, requires informed written consent by the patient before an abortion and requires that a physician make certain disclosures to the patient before performing an abortion. Subsection 2(a) of Code section 17015 defines the term "abortion" as follows:

"Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

The drug mifepristone, when intentionally used to terminate a woman's pregnancy for a purpose other than the limited purposes specified above and not as a

contraceptive, clearly falls within the Code's definition of "abortion."

It is my opinion, therefore, in answer to your third question, that the intentional use of mifepristone to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus, and not as a contraceptive, constitutes an "abortion" under section 17015 of the Public Health Code.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CONSTITUTIONAL LAW: Homestead tax exemption as violating equal protection of law under state and federal constitutions**

**SCHOOLS AND SCHOOL DISTRICTS:**

**TAX EXEMPTION:**

**Section 1211(1) of the Revised School Code, which authorizes school districts to levy a maximum of 18 mills for school operating purposes but exempts homestead property from those levies, does not violate equal protection of law as guaranteed by Const 1963, art 1, § 2, and US Const, Am XIV, when applied to owners of non-homestead, income-producing real property.**

Opinion No. 7078

March 20, 2001

Honorable Thaddeus G. McCotter  
State Senator  
The Capitol  
Lansing, MI 48909-7536

You have asked if section 1211(1) of the Revised School Code, which authorizes school districts to levy a maximum of 18 mills tax for school operating purposes but exempts homestead property from these levies, violates equal protection of law as guaranteed by Const 1963, art 1, § 2, and US Const, Am XIV, when applied to owners of nonhomestead income-producing real property. One of your constituents has questioned why he pays substantially more property tax on his rental residence than on his own home, even though they are of similar value.

Until 1994, Const 1963, art 9, § 3, commanded that "[t]he legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law." This uniformity requirement, earlier expressed in Const 1908, art 10, § 3, meant that both the rate of taxation and the method of assessment had to be uniform within the territory to which the tax applied. *Huron-Clinton Metropolitan Authority v Bds of Supervisors of Five Counties*, 304 Mich 328, 335-336; 8 NW2d 84 (1943).

In 1994, as part of a major change in financing public education, Michigan voters adopted Proposal A. That proposal, among other things, modified the first sentence of Const 1963, art 9, § 3 (quoted above), by adding language that excepted from the uniformity requirement those taxes levied for school operating purposes.

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law *except for taxes levied for*

*school operating purposes.* [Emphasis added.]

The Legislature implemented this change in Const 1963, art 9, § 3, by requiring the levy of a 6 mill state education tax on all property and by authorizing an additional levy of not more than 18 mills for school operating purposes, but only on *nonhomestead* property. See, respectively, section 3 of the State Education Tax Act, 1993 PA 331, MCL 211.901 *et seq*; MSA 7.557(31) *et seq*, and section 1211 of the Revised School Code, MCL 380.1 *et seq*; MSA 15.4001 *et seq*. See also OAG, 1995-1996, No 6911, pp 191, 193, n 3 (August 7, 1996).

In section 1211(1) of the Revised School Code, the Legislature authorized the levy of not more than 18 mills for school operating purposes on nonhomestead property as follows:

[T]he board of a school district shall levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes, whichever is less. *A homestead and qualified agricultural property are exempt from the mills levied under this subsection* except for the number of mills by which that exemption is reduced under this subsection. [Emphasis added.]

The term "homestead" is defined by section 1211d(a) of the Revised School Code, and by section 7dd of the General Property Tax Act, 1893 PA 206, MCL 211.1 *et seq*; MSA 7.1 *et seq*, as follows:

(a) "Homestead" means that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit.

In *Citizens for Uniform Taxation v Northport Public School Dist*, 239 Mich App 284; 608 NW2d 480, *lv den* 462 Mich 899 (2000); *cert den* 121 S Ct 484; 148 L Ed 2d 457 (November 13, 2000), a group of Michigan citizens owning nonexempt property challenged the constitutionality of the homestead exemption on grounds, among others,<sup>1</sup> that it violated the Equal Protection Clause of both the state and federal constitutions. Both the trial court and the Michigan Court of Appeals rejected these challenges. At p 290, the court upheld the homestead exemption found in section 1211(1) of the Revised School Code as follows:

We find that the distinction between homestead and nonhomestead property in § 1211 is supported by a rational basis. We agree with the trial court that the Legislature's interest in granting an exemption to homestead property is to protect and promote homestead property, see House Legislative Analysis, HB 5111 *et al*, March 1, 1994, which is a legitimate state interest. Moreover, decreasing the burden of property taxes on homesteads by granting an exemption from the property tax mills authorized under § 1211 is certainly rationally related to that legitimate state interest. See *Rubin, supra* at 309, 416 A2d 382. The trial court properly found no equal protection violation.

This decision compels the conclusion that the homestead exemption from certain property taxes for school operating purposes, as authorized by Const 1963, art 9, § 3, and implemented by section 1211(1) of the Revised School Code, is constitutional.

It is my opinion, therefore, that section 1211(1) of the Revised School Code, which authorizes school districts to levy a maximum of 18 mills for school operating purposes but exempts homestead property from those levies, does not violate equal protection of law as guaranteed by Const 1963, art 1, § 2, and US Const, Am XIV, when applied to owners of nonhomestead, income-producing real property.

JENNIFER M. GRANHOLM  
Attorney General

<sup>1</sup>The Court of Appeals rejected plaintiff's claim that the homestead exemption violated the Privileges and Immunities Clause of the United States Constitution, US Const, art IV, § 2, because the statutory exemption "does not distinguish between residents and nonresidents." *Citizens for Uniform Taxation v Northport Public School Dist, supra*, 239 Mich App at p 288.

**CONSTITUTIONAL LAW: Former judge's eligibility for non-judicial elective office****ELECTIONS:****JUDGES:****PUBLIC OFFICES AND OFFICERS:**

**Under Const 1963, art 6, § 21, a judicial officer must terminate his or her judicial service at least one year before filing or being selected as a candidate for, or being elected to, a non-judicial elective office.**

Opinion No. 7079

March 20, 2001

Honorable Samuel Buzz Thomas, III  
State Representative  
The Capitol  
Lansing, MI

Const 1963, art 6, § 21, which renders sitting judges ineligible for other offices, provides that:

Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

You have requested guidance on the practical application of this constitutional provision. Specifically, you ask whether a judicial officer must terminate his or her judicial service one year before: (a) the filing deadline for a non-judicial office; (b) the date a party convention votes to select a candidate for a non-judicial office; (c) the election to a non-judicial office; or (d) the date one assumes non-judicial office following an election, to be eligible for nomination for or election to a non-judicial elective office.

The term "elected," as used in Const 1963, art 6, § 21, refers to the actual date of the election. OAG, 1999-2000, No 7050, p 111 (March 30, 2000). That opinion concluded that the term "election," as used in section 374a of the Revised School Code, 1976 PA 451, MCL 380.1 *et seq*; MSA 15.4001 *et seq*, referred to the actual date of election to the subsequent office, not the date on which a person may become a candidate for the subsequent office, or the date on which a person actually assumes the duties of the subsequent office. The opinion noted that section 374a, in clear language, expressly referred to "election or appointment" to the subsequent office. But, in contrast to the statutory provision at issue in that opinion, the one year prohibition in Const 1963, art 6, § 21, also extends to being "nominated" for an elective non-judicial office. The cardinal rule in interpreting constitutional language is to give the language the common meaning it would convey to the popular mind. *Committee for Constitutional Reform v Secretary of State*, 425 Mich 336, 340; 389 NW2d 430 (1986).

Const 1963, art 6, § 21, clearly provides that any judge of a court of record may not be nominated for or elected to a non-judicial elective office until the judge has vacated his or her judicial office for at least one year. A review of Michigan election statutes reveals that persons may be nominated for non-judicial elective office by primary election, by selection at a convention, or by filing nominating petitions.

The most common method of nominating persons for elective office is the primary election. See the Michigan Election Law, 1954 PA 116, MCL 168.1 *et seq*; MSA 6.1001 *et seq*, chapter XXIV, beginning with section 531. The purpose of a primary election is to "select . . . nominees for a particular office." *Ferency v Secretary of State*, 190 Mich App 398, 415-416; 476 NW2d 417 (1991), *lv den* 439

Mich 953, 1021 (1992). OAG, 1999-2000, No 7050, p 111, *supra*, determined that the term "election" clearly referred to the actual date of the election for the subsequent office. Here, the term "nominated," in the context of a primary election, clearly refers to the actual date of the primary election in which a candidate is selected as the nominee to run for the subsequent office. Thus, in the context of a primary election, the term "nominated for" office, as used in Const 1963, art 6, § 21, means the day of the primary election when the candidate is selected to run for public office.

For some offices, nominees are selected at party conventions. For example, section 282 of the Michigan Election Law describes the nomination process for certain statewide educational offices as follows:

At its fall state convention each political party may nominate 2 candidates for membership on the board of regents of the University of Michigan, 2 candidates for membership on the board of trustees of Michigan State University and 2 candidates for membership on the board of governors of Wayne State University. Here, the nomination for the office occurs at the party convention when a candidate is selected to run for the subsequent office. The candidate is nominated on the day the party convention votes to select the candidate as the party's nominee, just as a candidate is nominated at a primary election on the day of the vote to determine the nominee. Thus, where a candidate is selected at a party convention, the term "nominated for" office, as used in Const 1963, art 6, § 21, means the day the party convention votes to select the candidate as its nominee.

The third method of nominating persons for elective office is by simply filing nominating petitions. For example, under sections 1066 and 1067 of the Revised School Code, there are no primary elections for members of local boards of education. Rather, candidates for membership on local boards of education file "nominating petitions" to entitle themselves to appear on the official ballot for the general election of members of boards of education as "candidates who are duly nominated for each term of office." In this context, the term nominated for office, as used in Const 1963, art 6, § 21, means the day the nominating petitions are filed since that filing enables the candidate to become a nominee eligible to appear on the official ballot for the general election of members of boards of education.

Based on the plain meaning of Const 1963, art 6, § 21, if a candidate for non-judicial elective office is a former judge, the selection of that person, by whatever method, to stand as a candidate for non-judicial elective office, may not occur until the candidate has been out of judicial office for at least one year. Likewise, a former judge may not be elected to a non-judicial office for at least one year after ceasing to serve as judge.

It is my opinion, therefore, that under Const 1963, art 6, § 21, a judicial officer must terminate his or her judicial service at least one year before filing or being selected as a candidate for, or being elected to, a non-judicial elective office.

JENNIFER M. GRANHOLM  
*Attorney General*

**CAMPAIGN FINANCE ACT: Michigan Municipal League's expenditure of funds, received as dues paid by its member municipalities, to support or oppose a ballot question**

**ELECTIONS:**

**MUNICIPAL CORPORATIONS:**

**NONPROFIT CORPORATIONS:**

**PUBLIC BODY:**

**PUBLIC MONEY:**

**The Michigan Municipal League, a nonprofit corporation, may, consistent with the requirements of the Michigan Campaign Finance Act, spend its corporate funds to support or oppose a ballot question.**

Opinion No. 7080

April 17, 2001

Honorable Candice S. Miller  
Secretary of State  
Treasury Building - First Floor  
430 W. Allegan  
Lansing, Michigan 48918-9900

You have asked if recent amendments to the Michigan Campaign Finance Act warrant changes to the conclusion in OAG, 1981-1982, No 5882, p 137 (April 22, 1981), that the Michigan Municipal League, a nonprofit corporation, may, consistent with the requirements of the Michigan Campaign Finance Act, spend its corporate funds to support or oppose a ballot question.

OAG, 1981-1982, No 5882, *supra*, p 137, concluded that municipalities had the authority to spend their funds by paying membership dues to the Michigan Municipal League (MML). This conclusion was based on *Hays v Kalamazoo*, 316 Mich 443; 25 NW2d 787 (1947), in which the Michigan Supreme Court held that municipalities could join the MML and spend their public funds to pay for the services provided to them by the MML, a nonprofit corporation. *Hays, supra*, p 458. The court also held that the MML could properly lobby the state Legislature with respect to proposed legislation that would affect its members. *Id.*, at 466-467.<sup>1</sup> OAG, 1981-1982, No 5882, *supra*, p 139, also concluded that the MML could spend its corporate funds in connection with the passage or defeat of a ballot question. That conclusion was based on *Advisory Opinion on Constitutionality of 1975 PA 227*, 396 Mich 465, 494-495; 242 NW2d 3 (1976), in which the Michigan Supreme Court held that under Const 1963, art 1, § 5, private corporations have a constitutionally protected right to express their views on ballot questions.

The Michigan Campaign Finance Act (MCFA), 1976 PA 388, MCL 169.201 *et seq*; MSA 4.1703(1) *et seq*, regulates campaign financing and restricts campaign contributions. It was enacted "to ensure the integrity of Michigan's political campaigns and offices, thereby protecting the interests of the public at large, individual citizens, and candidates for public office." Senate Legislative Analysis, SB 1570, December 17, 1976. Recent amendments to the MCFA include new sections 11(6) and 57, added and amended by 1995 PA 264 and 1996 PA 590.

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<sup>1</sup>"In view of the present day problems confronting cities and villages, we cannot say that the expenditure of public funds for the purpose of giving to the legislature information with reference to the subject matter of proposed or anticipated legislation affecting such problems, is against public policy." *Id.*, at 466-467.

Section 57 prohibits *public bodies* from contributing to candidate and ballot question elections as follows:

A public body or an individual acting for a public body shall not use or authorize the use of funds, personnel, office space, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure or provide volunteer personal services that are excluded from the definition of contribution under section 4(3)(a). . . .

Section 6(1) of the MCFA defines "expenditure" as:

[A] payment, donation, loan or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, or the *qualification, passage, or defeat of a ballot question*. [Emphasis added.]

Both before and after OAG, 1981-1982, No 5882, *supra*, it was well established that "school districts and other public boards and commissions lack statutory authority to expend public funds to influence the electorate in support of or in opposition to a particular ballot proposal or candidate." OAG, 1987-1988, No 6423, p 33, 35 (February 24, 1987).<sup>2</sup> The language in new section 57 of the MCFA reinforces this principle by expressly prohibiting public bodies from spending public funds or other resources for the passage or defeat of ballot questions.<sup>3</sup>

The answer to your question hinges on whether the MML constitutes a "public body or an individual acting for a public body" subject to the prohibition imposed by section 57 of the MCFA. Section 11(6) of the Act defines the term "public body" as follows:

(6) "Public body" means 1 or more of the following:

(a) A state agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.

(b) The legislature or an agency, board, commission, or council in the legislative branch of state government.

(c) A county, city, township, village, intercounty, intercity, or regional governing body; a council, school district, special district, or municipal corporation; or a board, department, commission, or council or an agency of a board, department, commission, or council.

(d) Any other body that is created by state or local authority or is primarily funded by or through state or local authority, which body exercises governmental or proprietary authority or performs a governmental or proprietary function.

In construing legislation, the primary goal is to ascertain and effectuate the intent of the Legislature. The first step in ascertaining legislative intent is to examine the statutory language. If the language is clear, there is no room for judicial construction and the statute must be applied as written. *State Defender Union Employees, UAW Local 412-Unit 64, v Legal Aid and Defender Ass'n of Detroit*, 230 Mich App 426, 431; 584 NW2d 359 (1998). If the statute is not clear on its face, a court may "look to the language and interpretation of analogous statutes." *Citizens for Pretrial Justice v Goldfarb*, 415 Mich 255, 276; 327 NW2d 910 (1982).

The MML is a private corporation, not a "public body" as defined by the MCFA. It is not an agency within either the executive or legislative branch of state government, nor does it constitute any of the other entities enumerated in subsections 11(6)(a), (b), or (c) of the MCFA.

<sup>2</sup>See, for example, OAG 1965-1966, No 4291, p 1 (January 4, 1965); OAG, 1965-1966, No 4421, p 36 (March 15, 1965); OAG, 1987-1988, No 6446, p 131 (June 12, 1987); OAG, 1987-1988, No 6531, p 367 (August 8, 1988).

<sup>3</sup>Violation of section 57 is a misdemeanor punishable by imprisonment up to one year, or substantial fines, or both.

Nor, for two reasons, does the MML constitute a "public body" for purposes of subsection 11(6)(d). First, the MML is not created by state or local authority. Rather, the MML is a private nonprofit corporation established to provide advice, lobbying, and other services for cities and villages in Michigan. *Hays, supra*, p 449-550. OAG, 1989-1990, No 6563, p 27, 35 (January 26, 1989), which concluded "that the Freedom of Information Act does not apply to a private nonprofit corporation," observed that:

A private nonprofit corporation is not an instrumentality of either state or local government but, rather, a private entity organized on a membership basis whose members [may] include both public and private members. [OAG, 1989-1990, No 6563, *supra*, p 34.]

Second, the MML is not primarily funded by or through state or local authority. In *State Defender Union Employees, supra*, the Michigan Court of Appeals considered whether the Legal Aid and Defender Association of Detroit, a private, nonprofit corporation established to provide legal services to indigent persons, was a "public body" within the meaning of the Freedom of Information Act (FOIA), MCL 15.231 *et seq*; MSA 4.1801(1) *et seq*. FOIA employs the same definition of "public body" as the MCFA. Plaintiff alleged that the Defender Association received a large portion of its funding from government sources and, therefore, was a "public body" within the meaning of FOIA. The court addressed virtually the same issue presented here, whether an organization that receives payment from government sources in return for providing services is "funded by or through state or local authority." Interpreting "funded" to mean the receipt of a government grant or subsidy, the court held that "an otherwise private organization is not 'funded by or through state or local authority' merely because public monies paid in exchange for goods provided or services rendered comprise a certain percentage of the organization's revenue." *Id.*, at 432-433.

Applying *State Defender Union Employees* to our facts, the MML receives money from its members, who are local governmental bodies. But the Michigan Supreme Court in *Hays, supra*, in considering the same MML, characterized this arrangement as "annual dues in return for services rendered." *Id.*, at 459. Under *State Defender Union Employees*, the mere receipt of governmental money by a private organization does not constitute governmental "funding." Similar to the Legal Aid and Defender Association, the MML performs services in return for the revenue it receives from the local governmental bodies who are members. Under these circumstances and under Michigan case law, the MML is not "funded by or through state or local authority." Since the MML is not created by state or local authority and is not primarily funded by or through state or local authority, it is unnecessary to analyze the remaining elements in MCFA subsection 11(6)(d). See *Herald Co v Bay City*, 463 Mich 111, 129; 614 NW2d 873 (2000) (analyzing similar definition of "public body" in Open Meetings Act, MCL 15.261 *et seq*; MSA 4.1800(11) *et seq*).

Similarly, the MML does not constitute an "individual acting for a public body" for purposes of MCFA section 57(1). In this regard, it is significant to note that the Legislature chose to use the undefined term "individual" rather than the term "person" as defined in the MCFA. Section 11(1) of the MCFA defines "person" as a "business, individual, . . . corporation, association, committee, or any other organization or group of persons acting jointly." The term "individual" refers to a natural person, not a corporation. See e.g., *Sentry Security Systems Inc v Detroit Automobile Inter-Insurance Exchange*, 394 Mich 96, 97; 228 NW2d 779 (1975); See also, MCL 330.1800(c); MSA 14.800(800)(c) (individual means a minor or adult person); MCFA section 11(1). Had the Legislature intended the MML or any other corporation to fall within the ambit of the "individual acting for a public body" language, the Legislature would have used the broader and defined term "person" rather than "individual." See e.g., *Herald Co v Bay City, supra*, 130, n 11. Here, the Legislature has only expressed the intent that the term "individual" include natural persons. Accordingly, the MML is neither a "public body" nor an "individual acting for a public body."

Under Const 1963, art 1, § 5, private corporations have a constitutionally protected right to express their views on ballot questions. *Advisory Opinion on Constitutionality of 1975 PA 227*, *supra*, pp 494-495. Payments of public funds to the MML by municipalities are authorized by law. *Hays*, *supra*, p 458. Monies received by the MML from its member municipalities represent fees for services rendered. *Id.*, at 458-459. Once a legal payment of public money has been made, "it ceases to be public money in the hands of the recipients." *Krebs v Teachers' Retirement System Bd of Trustees*, 410 ILL 435; 102 NE2d 321, 326 (1951). See also, *State Defender Union Employees*, *supra*, pp 432-433 (public funding does not include earned fees for services or goods rendered). Thus, once a municipality uses its public funds to pay an employee, vendor, or other party, the funds are no longer public funds. It follows that, once a municipality member pays the MML for services rendered, the funds belong to the MML, a private corporation, and thus lose their character as public funds. It was on this basis that OAG, 1981-1982, No 5882, *supra*, concluded that the MML may spend its funds in connection with the passage or defeat of a ballot question.

It is my opinion, therefore, that the Michigan Municipal League, a nonprofit corporation, may, consistent with the requirements of the Michigan Campaign Finance Act, spend its corporate funds to support or oppose a ballot question.

JENNIFER M. GRANHOLM  
Attorney General

## **ELECTIONS: Vote required for amendments to home rule village charter**

### **MUNICIPALITIES:**

### **VILLAGES:**

**A village established under the Home Rule Village Act may not enforce a charter requirement that proposed charter amendments be approved by a two-thirds vote of electors where the Legislature has required only a majority vote for such amendments.**

Opinion No. 7081

April 17, 2001

Honorable Gary C. Peters  
State Senator  
The Capitol  
Lansing, MI

You have asked if a village established under the Home Rule Village Act may enforce a charter requirement that proposed charter amendments be approved by a two-thirds vote of electors where the Legislature has required only a majority vote for such amendments.

The Home Rule Village Act, 1909 PA 278, MCL 78.1 *et seq*; MSA 5.1511 *et seq*, provides for the incorporation of villages and for revising and amending their charters. The law is settled that "every municipal charter is subject to the Constitution and general laws of this State." *City of Hazel Park v Municipal Finance Comm*, 317 Mich 582, 599; 27 NW2d 106 (1947). Moreover, section 27 of the Home

Rule Village Act provides that "[n]o provision of any village charter shall conflict with . . . any general law of the state . . . ." When there is a conflict between a state statute and a city charter provision with regard to the vote required to approve the issuance of bonds, the state statute prevails. *City of Lansing v Bd of Canvassers*, 380 Mich 496, 506-507, 510-511; 157 NW2d 264 (1968); OAG, 1921-1922, p 138 (May 19, 1921). Thus, we must examine whether a village charter requirement that its amendments be approved by more than a majority of the electors voting on the amendment conflicts with the Home Rule Village Act.

With regard to adopting charters and charter amendments, section 26(1)(d) of the Home Rule Village Act provides as follows:

(1) A village shall not do any of the following:

\* \* \*

(d) Adopt a charter or amendment to a charter, *unless approved by a majority of the electors* voting on the charter or amendment at a general or special election. [Emphasis added.]

No reported Michigan case addresses whether section 26(1)(d) of the Home Rule Village Act prevents a village from requiring more than a majority vote for approval of charter amendments. The Michigan Supreme Court has, however, addressed this question in the context of virtually identical language in section 5(e) of the Home Rule City Act, MCL 117.1 *et seq*; MSA 5.2071 *et seq*, dealing with the approval of city charters and charter amendments. Section 5(e) of that act provides, with regard to approving city charters and amendments, as follows:

A city does not have power:

\* \* \*

(e) To adopt a charter or an amendment to the charter *unless approved by a majority of the electors* voting thereon . . . . [Emphasis added.]

In *Wagner v Ypsilanti Village Clerk*, 302 Mich 636; 5 NW2d 513 (1942), the court addressed the adoption of a statute by the voters of a home rule city. By statute, the manner of adoption by a city was that "provided by law for amending charters." *Id.*, at p 640. By resolution, the city council determined that a three-fifths vote was needed for adoption of the statute. Although a majority of the voters voted to adopt the statute, adoption was not approved by the three-fifths margin required by the city council. On that basis, the city council concluded that the state statute had not been adopted. The court found that where the Legislature has required a majority vote for charter amendments, a city lacks authority to impose a more stringent requirement. The court granted a writ of mandamus compelling the city to comply with the Home Rule City Act because city voters had lawfully adopted the statute by the simple majority vote required for adopting charter amendments. Finding that the city's requirement for a super majority vote was "mere surplusage," the court ruled as follows:

Charter amendments required only a simple majority for adoption. If Act No. 345, *supra*, is to be adopted in the same manner as a charter amendment, then it needs no more than a simple majority for passage. [*Id.*, at pp 638, 640.]

*Wagner, supra*, holds that the Home Rule City Act provision "unless approved by a majority of the electors" requires only a majority vote to approve a city charter amendment. In setting forth the approval process for *village* charter amendments, section 26(1)(d) of the Home Rule Village Act uses the same phrase, "unless approved by a majority of the electors." The Legislature passed these two acts back to back in 1909. Given the identical phrases in the two statutes, there is no reason to believe that the Legislature was imposing a majority vote requirement for the approval of *city* charter amendments while only establishing a minimum vote requirement for the approval of *village* charter amendments. The court's

interpretation of the Home Rule City Act regarding approval of city charter amendments is persuasive in interpreting identical language in the Home Rule Village Act regarding approval of village charter amendments. It must therefore be concluded that a village established under the Home Rule Village Act may not require that proposed charter amendments be approved by a two-thirds vote of the voters voting on the amendment.<sup>1</sup> The Legislature is, of course, free to amend the Act to authorize a vote greater than a majority vote for adopting village charter amendments.

My staff is advised that at least two Michigan home rule villages have charter provisions requiring voter approval of charter amendments by a two-thirds vote of the electors voting on the amendment. In these two villages, a number of proposed charter amendments have been approved by a majority of the electors but were determined to have failed because they were not approved by two-thirds vote. Under MCL 600.4545(2); MSA 27A.4545(2), an action to challenge the results of a ballot question must be brought "within 30 days after such election." This mandatory thirty day time period begins to run when the "election results are certified by the applicable board of canvassers." *Wills v Iron County Bd of Canvassers*, 183 Mich App 797, 804; 455 NW2d 405 (1990). Thus, as to any village election in which the results were certified by the applicable board of canvassers more than thirty days ago, it is too late to successfully challenge the results.

It is my opinion, therefore, that a village established under the Home Rule Village Act may not enforce a charter requirement that proposed charter amendments be approved by a two-thirds vote of electors where the Legislature has required only a majority vote for such amendments.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>1</sup>This result is consistent with OAG, 1999-2000, No 7037, p 75 (October 19, 1999), which concluded that a downtown development authority board may not require that all board members have an interest in property located in the downtown development authority district where the controlling statute only required that "[n]ot less than a majority of the members [of the board] shall be persons having an interest in property located in the downtown district."

**LICENSING AND REGULATION: Motor vehicle repair facility's duty to furnish written estimate before commencing nonstandard customization work on motor vehicle**

**MECHANICS:**

**MOTOR VEHICLE SERVICE AND REPAIR ACT:**

**The Motor Vehicle Service and Repair Act requires a motor vehicle repair facility registered under the Act to provide a customer with a written estimate of the cost of labor and parts before the facility provides nonstandard customization work such as removing or installing one-of-a-kind parts, unless the customer provides a written waiver of the estimate.**

Opinion No. 7082

June 5, 2001

Honorable Jerry O. Kooiman  
State Representative  
The Capitol  
Lansing, MI

You have asked whether the Motor Vehicle Service and Repair Act requires a motor vehicle repair facility registered under the Act to provide a customer with a written estimate of the cost of labor and parts before the facility performs nonstandard customization work such as removing or installing one-of-a-kind parts.

The Motor Vehicle Service and Repair Act (Act), 1974 PA 300, MCL 257.1301 *et seq.*; MSA 9.1720(1) *et seq.*, which regulates the repairing and servicing of motor vehicles, was enacted to protect consumers from incompetent repairs and service. House Legislative Analysis, HB 5047, October 14, 1974. The Act prohibits a person from operating a motor vehicle repair facility unless the facility is registered with the administrator. Section 6. The term "administrator" means the secretary of state or any person designated by him or her to act in his or her place. Section 2.

Section 2(g) of the Act defines the term "motor vehicle repair facility" as follows:

"Motor vehicle repair facility" means a place of business which engages in the business of performing or employing persons who perform maintenance, diagnosis, vehicle body work, or repair service on a motor vehicle for compensation, but excluding all of the following:

- (i) A person who engages only in the business of repairing the motor vehicles of a single commercial or industrial establishment or governmental agency.
- (ii) A person repairing his or her own or a family member's car.
- (iii) A business that does not diagnose the operation of a motor vehicle, does not remove parts from a motor vehicle to be remachined, and does not install finished machined or remachined parts on a motor vehicle, not including a motor vehicle repair facility that engages in the business of performing or employing persons who perform vehicle body work.

This definition of "motor vehicle repair facility" makes it clear that businesses that "remove parts from a motor vehicle to be remachined" or "install finished machined or remachined parts on a motor vehicle" are motor vehicle repair facilities subject to the Act. The definition also provides for certain exclusions. Nothing in this definition section, however, or in any other section of the Act, excludes activities involving nonstandard customization work on motor vehicles such as removing or installing one-of-a-kind parts.

OAG, 1999-2000, No 7011, p 11 (March 23, 1999), analyzed the definition of a

motor vehicle repair facility under the Act, and the exclusions contained in section 2g, as applied to a business that only installed replacement windshield glass on motor vehicles. The opinion concluded that since such services did *not* require diagnosis of the operation of a motor vehicle, removal of parts for remachining, or installation of machined or remachined parts, registration of the business was not required under the Act.

The Act further provides that “prior to the commencement of work” a motor vehicle repair facility must furnish to a customer a written estimate, itemizing as closely as possible the price for labor and parts necessary for a specific job. Section 32(1). It also states that a customer may provide a written waiver of the written estimate of the cost of labor and parts.<sup>1</sup> Section 32(3).

The first step in ascertaining legislative intent is to look to the text of the statute. *Piper v Pettibone Corp*, 450 Mich 565, 571; 542 NW2d 269 (1995). A clear and unambiguous statement must be enforced by the court as written according to its plain meaning. *Dean v Dep’t of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper*, 450 Mich at 572.

Applying the plain language of the Act, the legislative intent is clear that a registered motor vehicle repair facility, when requested by a customer to provide nonstandard customization services on a motor vehicle, and when performing vehicle maintenance, diagnosis, body work or repairs, including removing or installing one-of-a-kind parts pursuant to the customers specifications, must provide a written estimate, itemizing as closely as possible the cost of labor and parts for the requested work.

It is my opinion, therefore, that the Motor Vehicle Service and Repair Act requires a motor vehicle repair facility registered under the Act to provide a customer with a written estimate of the cost of labor and parts before the facility provides nonstandard customization work such as removing or installing one-of-a-kind parts, unless the customer provides a written waiver of the estimate.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>1</sup>Administrative rules promulgated pursuant to the Act provide that it is an unfair and deceptive practice to “[i]mproperly utilize waivers in such a way as to suggest or imply, directly or indirectly, orally or by action, that service or repairs will be improved or expedited if a waiver is signed, or that price will be improved.” 1979 AC, R 257.137(a).

**FREEDOM OF INFORMATION ACT: Calculating fees chargeable under the Freedom of Information Act**

The Freedom of Information Act permits a public body to charge a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks, even when the labor is performed by a public employee during business hours and does not add extra costs to the public body's normal budget.

Under section 4(3) of the Freedom of Information Act, a public body may not charge a fee for the cost of its search, examination, review, and the deletion and separation of exempt from nonexempt information, unless failure to charge a fee would result in unreasonably high costs to the public body. This fee limitation, however, does not apply to a public body's costs incurred in the necessary copying or publication of a public record for inspection, or for providing a copy of a public record and mailing the copy.

The phrase "unreasonably high costs," as used in section 4(3) of the Freedom of Information Act prohibits a public body from charging a fee for the costs of search, examination, review, and deletion and separation of exempt from nonexempt information unless the costs incurred by a public body for those activities in the particular instance would be excessive and beyond the normal or usual amount for those services.

Opinion No. 7083

June 7, 2001

Honorable Gilda Z. Jacobs  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked three questions regarding a public body's authority to charge a fee for providing public records under Michigan's Freedom of Information Act.

The Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231 *et seq*; MSA 4.1801(1) *et seq*, entitles a person to inspect, copy, or receive copies of certain public records of public bodies. The purpose and scope of the FOIA are delineated in the public policy statement set forth in section 1(2).

[A]ll persons . . . are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees . . . so that they may fully participate in the democratic process.

Your specific questions concern relevant portions of section 4 of the FOIA, which provide as follows:

(1) A public body may charge a fee for a public record search, the necessary copying of a public record for inspection, or for providing a copy of a public record. Subject to subsections (3) and (4), the fee shall be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. . . .

\* \* \*

(3) In calculating the cost of labor incurred in duplication and mailing and the cost of examination, review, separation, and deletion under subsection (1), a public body may not charge more than the hourly wage of the lowest paid public body employee capable of retrieving the information necessary to comply with a request under this act. . . . A fee shall not be charged for the cost of search,

examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. A public body shall establish and publish procedures and guidelines to implement this subsection.

Your first question asks whether the FOIA permits a public body to charge a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks, even when the labor is performed by a public employee during business hours and does not add extra costs to the public body's normal budget.

The second sentence of section 4(1) of the FOIA permits the public body to charge a fee as follows:

Subject to subsections (3) and (4), the fee shall be limited to *actual mailing costs*, and to the *actual incremental cost of duplication or publication including labor*, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14. [Emphasis added.]

The first sentence of section 4(3) specifies the method for calculating the cost of labor as follows:

In calculating the cost of labor incurred in duplication and mailing and the cost of examination, review, separation, and deletion under subsection (1), a public body may not charge more than the hourly wage of the lowest paid public body employee capable of retrieving the information necessary to comply with a request under this act.

The Legislature has not defined the term "incremental" as used in section 4. In the absence of any reported Michigan appellate court decision on the question, it is appropriate to rely upon dictionary definitions. *People v Denio*, 454 Mich 691, 699; 564 NW2d 13 (1997). According to the *American Heritage College Dictionary, Third Edition* (2000), at p 689, the term "incremental" is the adjectival form of the noun "increment" which is defined as:

1. The process of increasing in number, size, quantity, or extent.
2. Something added or gained.
3. A slight, often barely perceptible augmentation.
4. One of a series of regular additions or contributions . . . .

The term "increment" is synonymous with "increase." *Id.* See also, *Rogert's II The New Thesaurus, Third Edition* (1995), at p 521.

The term "actual incremental cost" as used in section 4(1) directly modifies only the specific activities of "duplication or publication [of public records] including labor." Thus, a plain reading of this provision indicates that a public body may charge for all actual, additional costs, including labor, that are directly attributable to the specific tasks of copying or publishing a public record for the requester.

The term "actual incremental cost" is not used to modify or limit the costs attributable to the separately listed activities "search, examination, review, and the deletion and separation of exempt from nonexempt information." These latter tasks, however, are subject to the more restrictive limitation, described in section 4(3), that prohibits a public body from charging for those costs at all unless failure to do so would result in "unreasonably high costs to the public body."

This interpretation of section 4(1) of the FOIA is consistent with its legislative history. In its original form as 1976 HB 6085, the allowable costs were restricted to the actual incremental cost of duplication or publication of the requested record. House Legislative Analysis, HB 6085, September 10, 1976, and September 21, 1976. The Legislature amended the substitute to HB 6085 proposed section 4(1) to also allow charges for the "cost of search, examination, review, and the deletion and separation of exempt from nonexempt information" but without repeating the term "actual incremental cost" as applied to the latter charges. 1976 Journal of the House

3210-3211. House Legislative Analysis, HB 6085, December 10, 1976.

Your inquiry suggests that the term “actual incremental cost” should be read as prohibiting a public body from charging for any of its costs in copying or publishing a public record unless the costs are “incremental” to (and thus add to or increase) the public body’s existing budget for such costs. Under such a construction, a public body would be permitted to charge for the labor involved in copying a public record only if it were necessary to pay overtime or hire additional personnel to perform the copying work on a specific FOIA request. There is nothing in the language of section 4 of the FOIA, or in the four legislative analyses of HB 6085 and its House substitute, to suggest that the Legislature intended such a restrictive reading. What the Legislature likely meant by the term “incremental” was that cost associated with making copies for the FOIA requester, as opposed to costs associated with copies for the public agency’s internal purposes. The term “actual incremental cost” in the statute directly modifies the specified activities of duplicating or publishing the requested public record. Neither the statute nor the legislative history make any reference to a public body’s budget. Moreover, such a reading would almost certainly be counter-productive and even destructive to the public policy of the FOIA. If a public body were permitted to charge only for FOIA expenses that are outside its existing budget, it would have a strong incentive to refrain from budgeting any resources for FOIA requests in order to assure that all costs incurred in handling FOIA requests would be “incremental” to its existing budget and therefore chargeable to the requester. This would make it far more difficult for public bodies to promptly and efficiently comply with FOIA requests in the manner contemplated by the Act.

In addition, the FOIA has been part of Michigan law for over 24 years, and public bodies have incorporated procedures and personnel into their budgets during that time in order to comply with the FOIA. To impose on those public bodies now the requirement that they somehow identify their “actual incremental costs” as beyond normal operational costs would in effect prohibit the public bodies from charging anything for copying costs. The Legislature clearly did not intend that result. Merely because a public body’s duplicating costs in complying with FOIA requests have become routine does not mean they are any less “actual.”

The FOIA, of course, does not *require* a public body to charge for the copying of public records. The Act does, however, expressly permit such charges, subject to specific limitations, and attempts to strike an appropriate balance between the costs to the public body and the public interest in encouraging disclosure:

The FOIA clearly provides a method for determining the charge for records. It is incumbent on a public body, if it chooses to exercise its legislatively granted right to charge a fee for providing a copy of a public record, to comply with the legislative directive on how to charge. The statute contemplates only a reimbursement to the public body for the cost incurred in honoring a given request – nothing more, nothing less. [*Tallman v Cheboygan Area Schools*, 183 Mich App 123, 130; 454 NW2d 171 (1990).]

As stated in OAG, 1999-2000, No 7017, p 27 (May 13, 1999), “[i]n other words, a public body is not to make a profit on information retrieval, nor is it to suffer a loss.”

It is my opinion, therefore, in answer to your first question, that the Freedom of Information Act permits a public body to charge a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks, even when the labor is performed by a public employee during business hours and does not add extra costs to the public body’s normal budget.

Your second question asks whether section 4(3) of the FOIA limits the charging of all labor costs or only those labor costs associated with the search, examination, review, deletion, and separation of exempt from nonexempt information.

The fourth sentence of section 4(3) of the FOIA limits certain chargeable fees as follows:

*A fee shall not be charged* for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 *unless failure to charge a fee would result in unreasonably high costs to the public body* because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. [Emphasis added.]

By its express terms, the above-quoted sentence imposes a strict limitation on charging a fee to recover costs only for the specified tasks of “search, examination, review, deletion and separation” under section 4(1). The Legislature has not chosen to similarly limit the charging of labor fees for the separate tasks of mailing, necessary duplication for inspection, or for providing a copy of the record.

A study of the legislative history of this portion of section 4(3) of the FOIA indicates that it was originally enacted without change in 1976. Although this subsection was amended by 1988 PA 99, and by 1996 PA 553, the Legislature has made no changes to its fourth sentence.

Section 4(1), as originally enacted, only provided that “[a] public body may charge a fee for providing a copy of a public record.” Based on that language, both OAG, 1979-1980, No 5500, pp 255, 268 (July 23, 1979), and *Cashel v Regents of the Univ of Michigan*, 141 Mich App 541, 548; 367 NW2d 841 (1985), concluded that under section 4(1) there was no authority to charge a fee unless the requester asked for a copy of the document.

Section 4(1), however, was later amended by 1996 PA 553, to include express authority to “charge a fee for . . . the necessary copying of a public record for inspection.” That amendment added to the list of tasks for which a public body may charge a fee the costs incurred in preparing information for *inspection*. The amendment did not alter the preexisting authority to charge for labor costs incurred in making copies, publication, or mailing. Likewise, it did not alter the language which limited fees for the tasks of search, examination, review, deletion, and separation under section 4(1).

Where a requester asks only to inspect a public record, the imposition of fees for making the record available is addressed in sections 3(1), 3(3), and 4(1) of the FOIA. Section 3(1) provides, in pertinent part, that “a person has a right to inspect, copy, or receive copies of the requested public record of the public body.” Section 3(3), which addresses inspecting public records, provides as follows:

A public body shall furnish a requesting person a reasonable opportunity for inspection and examination of its public records, and shall furnish reasonable facilities for making memoranda or abstracts from its public records during the usual business hours. A public body may make reasonable rules necessary to protect its public records and to prevent excessive and unreasonable interference with the discharge of its functions. A public body shall protect public records from loss, unauthorized alteration, mutilation, or destruction.

One example of necessary copying for inspection would be to comply with the requirements of section 14(1) concerning separating exempt and nonexempt information as follows:

If a public record contains material which is not exempt under section 13, as well as material which is exempt from disclosure under section 13, the public body shall separate the exempt and nonexempt material and make the nonexempt material available for *examination* and copying. [Emphasis added.]

Thus, it may be necessary to copy the public record before the exempt and nonexempt material is separated so that the nonexempt material may be made available for examination or inspection. Another example of necessary copying to prepare the public record for inspection would be where a public body must comply with FOIA section 3(3) requiring a public body to protect public records from loss, unauthorized alteration, mutilation, or destruction. Thus, it may be necessary to copy the original record prior to its inspection in order to protect its integrity. And as to

records on computers, microfilm, or microfiche, making a copy for examination may be more reasonable than to have an employee present during the examination in order to protect the integrity of the records.

In *Cashel*, *supra*, the Michigan Court of Appeals affirmed the lower court's imposition of labor costs on the inspecting party after a two-week period of inspection. In reaching that result, the court relied upon a requirement of reasonableness derived from section 3(2) of the FOIA.<sup>1</sup> If the preparation of the public record for inspection, however, involves any of the tasks of search, examination, review, deletion, and separation specified in section 4(1), section 4(3) imposes a strict limitation on charging a fee to recover these costs.

It is my opinion, therefore, in answer to your second question, that under section 4(3) of the FOIA, a public body may not charge a fee for the cost of its search, examination, review, and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the public body. This fee limitation, however, does not apply to a public body's costs incurred in the necessary copying or publication of a public record for inspection, or for providing a copy of a public record and mailing the copy.

Your third question asks for an interpretation of the phrase "unreasonably high costs" as used in section 4(3) of the FOIA.

The fourth sentence of section 4(3), which limits the authority of public bodies to charge fees for furnishing information to requesters, provides as follows:

A fee shall not be charged for the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information as provided in section 14 unless failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, and the public body specifically identifies the nature of these unreasonably high costs. [Emphasis added.]

House Legislative Analysis, HB 6085, December 10, 1976, explains the purpose of this fee limitation provision.

[The public bodies] would not be allowed to charge for the cost of search, examination, review, deletion, or the separation of exempt from nonexemption information unless the following conditions held:

- 1) Failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the particular request.
- 2) The public body specifically identified the nature of these unreasonably high costs.

Although section 4(3) was amended by 1988 PA 99 and 1996 PA 553, the Legislature made no change in this limitation on a public body's authority to impose certain charges on a person requesting information.

In section 4(3), the Legislature has expressly directed a public body to specifically identify the nature of its costs attendant to a particular request before the public body may be reimbursed. Therefore, whether a particular charge reflects reimbursement of an unreasonably high cost to the public body must be identified and determined on a case-by-case basis.

The Legislature has not defined the phrase "unreasonably high costs" as used in section 4(3). No reported Michigan court decisions interpret that specific phrase. The Michigan Supreme Court has, however, defined the term "unreasonable" to mean "excessive, beyond a normal or proper limit." *People v Brooks*, 405 Mich 225, 251; 274 NW2d 430 (1979). Courts give the words used in a statute their plain and ordinary meaning. *People v Morey*, 461 Mich 325, 330; 603 NW2d 250 (1999). To determine the ordinary meaning of words used in a statute, reliance upon dictionary

<sup>1</sup>What was section 3(2) is now section 3(3) of the FOIA, as amended by 1996 PA 553.

definitions is appropriate. *Id.*, 461 Mich at 330-331. *The American Heritage College Dictionary, Third Edition*, at p 640, defines the word “high” to include the following: “Greater than usual or expected, as in quantity, magnitude, cost, or degree.”

In section 4(3) of the FOIA, the Legislature has provided, as the norm, that no fee for labor costs for the search, examination, review, and the deletion and separation of exempt from nonexempt information may be charged by a public body, *unless* the norm is exceeded when the processing of a particular request for information would result in unreasonably high costs to the public body. The Legislature did not impose a fixed standard for each public body to apply in making a determination. The more flexible standard of *unreasonably high costs* may reflect the realization that the more than 10,000 Michigan public bodies that are subject to the FOIA vary from large departments of state government with thousands of employees to small villages with only a few employees. In addition, the *unreasonably high costs* standard is flexible enough to also reflect both the volume and the complexity of FOIA requests that a public body receives, as well as each public body’s particular fiscal condition. The phrase in the sentence referring to “the nature of the request in the particular instance” is a clear indication of legislative intent that the determination of *unreasonably high costs* must be made on a case-by-case basis.

A few examples illustrate the application of FOIA section 4(3). If a FOIA request is made for an easily identified document consisting of a few standard size pages, labor for the search, examination, and making deletions under the FOIA would generally not present a case of unreasonably high costs to a public body. In such a case, the Legislature has directed that no charge be imposed. On the other hand, if a request is made for “any and all” documents as to a particular subject, requires a search of many boxes of records, including review for exempt material which must be or may be deleted under section 13 of the FOIA, and if that search, examination, and review involves numerous hours of labor, a public body might well be justified in imposing charges to avoid the *unreasonably high cost* arising from the nature of that particular request.

The last sentence of section 4(3) of the FOIA directs a public body to establish and publish procedures and guidelines to implement this subsection. Thus, the Legislature has directed each public body to establish guidelines implementing section 4(3) regarding the charging of fees. These guidelines would set forth the standards for calculating labor costs for the tasks specified in the fourth sentence of section 4(3) for the determination, on a case-by-case basis, when failure to charge a fee would result in “unreasonably high costs to the public body” in responding to a particular request.

It is my opinion, therefore, in answer to your third question, that the phrase “unreasonably high costs” as used in section 4(3) of the Freedom of Information Act prohibits a public body from charging a fee for the costs of search, examination, review, and deletion and separation of exempt from nonexempt information unless the costs incurred by a public body for those activities in the particular instance would be excessive and beyond the normal or usual amount for those services.

JENNIFER M. GRANHOLM  
*Attorney General*

**HOSPITALS: Nurse's refusal to work overtime as grounds for discipline under Public Health Code****NURSES:****PUBLIC HEALTH:**

**A nurse's refusal of an employer's demand to work overtime does not, in and of itself, constitute grounds for discipline under the Public Health Code.**

Opinion No. 7084

June 19, 2001

Honorable Bob Emerson  
State Senator  
The Capitol  
Lansing, MI 48913

You have asked whether a nurse's refusal of an employer's demand to work overtime, in and of itself, constitutes grounds for discipline under the Public Health Code.

Information supplied with your request suggests a shortage of nurses over the last several years has prompted health care facilities to require licensed nurses to work overtime.

The Public Health Code (Code), 1978 PA 368, MCL 333.1101 *et seq*; MSA 14.15(1101) *et seq*, grants the Michigan Department of Consumer and Industry Services (DCIS) and the various health professional boards, including the Michigan Board of Nursing, the authority to license and to regulate health professionals. This authority includes the ability to take disciplinary action against licensed health care professionals based upon violations of a general duty, personal disqualifications, unethical business practices, unprofessional conduct, and other specific categories. Section 16221.

The DCIS and the health professionals boards do not have broad common law powers and are not authorized to commence disciplinary action if the alleged misconduct is unrelated to professional competence or other specific violations of the Public Health Code. "Their powers are limited by the statutes creating them to those conferred expressly or by necessary or fair implication." *Coffman v State Bd of Examiners in Optometry*, 331 Mich 582, 590; 50 NW2d 322 (1951). (Quoting 42 Am Jur, § 26, p 316.)

Section 16221(a) of the Code authorizes discipline of health care professionals for "negligence or failure to exercise due care, . . . or any conduct, practice, or condition which impairs, or may impair, the ability to safely and skillfully practice the health profession." Nothing in section 16221, or any other section of the Code, specifically requires a nurse to comply with an employer's demand to work overtime, or renders the refusal of such demand, in and of itself, a violation of the Code. There is no reported Michigan case law addressing mandatory overtime in the context of a health professional's license. Each case, however, must be evaluated on its own merits to determine if a health professional's conduct "in the crucial and exacting matter of health care," *Burns v Bd of Nursing*, 495 NW2d 698, 700 (Iowa, 1993), falls below the required standard of care.

For example, in *Husher v Comm'r of Education of the State of New York*, 188 AD2d 739; 591 NYS2d 99 (1992), the court upheld disciplinary action against the license of a registered nurse who was required by her employer to work overtime. There the nurse did not refuse to work overtime; in fact she agreed, but suddenly left her work area 45 minutes after her overtime began, leaving 29 seriously ill patients in the hands of aides, orderlies and a respiratory therapist. In upholding a one-year suspension of the nurse's license, the court found that the nurse knew there was a

nursing shortage, agreed to stay until properly relieved, gave assurances she would stay for several hours, yet suddenly left her unit without proper nursing coverage, thus providing her supervisor with little or no opportunity to obtain a replacement. Under these facts, an appellate division of the New York Supreme Court concluded that the nurse abandoned her professional employment with the hospital and practiced her profession with gross negligence, seriously impairing the delivery of professional care to patients.

Similar facts, depending on the specific circumstances, could prompt the Michigan Nursing Board to find negligence or failure to exercise due care sufficient to warrant discipline under the Public Health Code. Of course, such factual determinations must be made on a case-by-case basis. A nurse's refusal of an employer's demand that he or she work overtime, however, does not by itself constitute a violation of the Code.

It is my opinion, therefore, that a nurse's refusal of an employer's demand to work overtime does not, in and of itself, constitute grounds for discipline under the Public Health Code.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CITIES: Eligibility requirements for position on city charter commission**

**ELECTIONS:**

**INCOMPATIBILITY:**

**PUBLIC EMPLOYEES:**

**PUBLIC OFFICES AND OFFICERS:**

**A person serving as a city officer or employee may run for election to the office of city charter commissioner but, if elected, must resign from the city office or employment before assuming the office of city charter commissioner.**

Opinion No. 7085

July 11, 2001

Honorable Dale Sheltrown  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked whether a person who is serving as a city officer or employee may run for election to the office of city charter commissioner.

The Home Rule City Act, 1909 PA 279, MCL 117.1 *et seq*; MSA 5.2071 *et seq*, provides for the incorporation of cities and for the adoption, revision, and amendment of their charters. Section 18 of this statute addresses the selection of city charter commissions and establishes eligibility requirements for charter commissioners; it provides in part that:

No city officer or employee, whether elected or appointed, shall be eligible to a place on the commission. [Emphasis added.]

A review of the legislative history demonstrates that the Legislature included this sentence in the original statute in 1909 and, although section 18 was amended on five separate occasions, the substance of this sentence has not been altered.

Research reveals no reported Michigan case law on the question posed by your inquiry. OAG, 1943-1944, No 0-1798, p 648 (February 10, 1944), concluded that while a city planning commissioner, as a city officer, is barred from simultaneously *serving* on a city charter commission, if the commissioner resigned from the planning commission, that commissioner would be eligible to run as a *candidate* for the charter commission. However, the question whether a person could become a candidate for election to the charter commission while still serving as a member of the planning commission, then resign from the planning commission if elected to the charter commission, was neither asked nor addressed in OAG No 0-1798.

A review of cases from other jurisdictions discloses two lines of authority on the question whether the time of eligibility of certain persons to hold public office, when not otherwise specified, means the time of a person's election to the office or the time the person elected actually assumes the office. These lines of authorities are examined in Annotation: Time as of which eligibility or ineligibility to office is to be determined, 88 ALR 812, supplemented by the annotation under the same title in 143 ALR 1026.

The first line of authority described in 88 ALR at 814 as the minority view in this country holds that eligibility for public office is to be determined as of the date of one's election. Representative of this line of authority is the decision in *Samuels v Hite*, 35 Cal 2d 115; 216 P2d 879, 880 (1950), where the California Supreme Court concluded that where neither the state constitution nor a statute specifies the time for eligibility, the candidate must be qualified on the date of the election. Relying on *Searcy v Grow*, 15 Cal 117, 121 (1860), the court followed the judicially approved definition of "eligible" to mean "capable of being chosen."

The second line of authority holds that the term "eligible" refers to capacity to hold the office rather than to be elected to office. Therefore, if a person is qualified to hold the office at the beginning of the term of office, ineligibility at the time of election to office is inconsequential. Representative of this view is the decision in *Slater v Varney*, 136 W Va 406; 68 SE2d 757 (1951), where the West Virginia Supreme Court of Appeals concluded that eligibility for a public office is the capacity to hold the office after being elected to it so that if any disqualification is removed before assuming the office, it is immaterial. The *Slater* case extensively cites the cases holding the two respective views and concludes that the second line of authority represents the majority rule in this country. *Id.*, at 769. 88 ALR at 813 makes the same statement.

The logic of the majority rule is more persuasive. Eligibility for public office should be determined with reference to conditions existing at the time of commencement of the term of office, and not with reference to conditions existing at the time of the election. This result is, of course, subject to any constitutional or statutory provision that may specify a different result.

Section 18 of the Home Rule City Act is silent concerning at what time eligibility for the office of charter commissioner should be determined. Moreover, the quoted portion of section 18 only limits eligibility for the office of charter commissioner and, except for a minimum residency requirement, does not limit who may be elected to that position.<sup>1</sup> Assuming a city officer or employee is elected to the city's charter commission and, at any time before assuming the office of city charter commissioner,

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<sup>1</sup>Cf. *Ball v Trenton City Clerk*, 1 Mich App 1, 3; 133 NW2d 218 (1965) (maximum age requirement of 70 for person to be eligible to be "elected" to judicial office, Const 1963, art 6, § 19, applied at time of election), and OAG, 1997-1998, No 6946, p 51 (July 25, 1997) ("[t]o be qualified to serve as a judge of a trial court," a person must be admitted to the practice of law for at least 5 years, Const 1963, art 6, § 19(2), applied as of the date of taking judicial office). (Emphasis added.)

removes the potential disqualification by resigning the city officer or employee position, that person would be eligible to perform the duties of charter commissioner. The statutory ineligibility never arises if the person no longer holds city office or employment at the time the person actually assumes "a place" on the city charter commission.

It is my opinion, therefore, that a person serving as a city officer or employee may run for election to the office of city charter commissioner but, if elected, must resign from the city office or employment position before assuming the office of city charter commissioner.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CAMPAIGN FINANCE ACT: Political activities by casino licensees and other persons**

**GAMING CONTROL AND REVENUE ACT: Political contributions by casino licensees and other persons**

**POLITICAL ACTIVITY:**

**Section 7b of the Michigan Gaming Control and Revenue Act does not prohibit casino licensees and other persons subject to that section from engaging in political activities on behalf of a political candidate or candidate committee. Such activities do not constitute a "contribution" as defined by section 4 of the Michigan Campaign Finance Act.**

**Section 7b of the Michigan Gaming Control and Revenue Act prohibits casino licensees and other persons subject to that section from making a non-monetary contribution to a political candidate or candidate committee that would constitute a "contribution" as defined by section 4 of the Michigan Campaign Finance Act.**

Opinion No. 7086

August 10, 2001

Honorable Mark H. Schauer  
State Representative  
The Capitol  
Lansing, Michigan 48909-7514

You have asked two questions concerning section 7b of the Michigan Gaming Control and Revenue Act (Gaming Act), 1996 Initiated Law, MCL 432.201 *et seq.* The Gaming Act implements and regulates casino gambling in Michigan. The title of the Gaming Act establishes its scope and provides, in part, as follows:

An act to provide for the licensing, regulation, and control of casino gaming operations, manufacturers and distributors of gaming devices and gaming related equipment and supplies, and persons who participate in gaming; . . . *to restrict certain political contributions*; to establish a code of ethics for certain persons involved in gaming; . . . [Emphasis added.]

Sections 7b(4) and (5)<sup>1</sup> of the Gaming Act restrict political contributions by licensees and persons holding an interest in a licensee or casino enterprise as follows:

(4) A licensee or person who has an interest in a licensee or casino enterprise, or the spouse, parent, child, or spouse of a child of a licensee or person who has an interest in a licensee or casino enterprise, shall not make a *contribution* to a candidate or a committee . . . .

\* \* \*

(5) A licensee or person who has an interest in a licensee or casino enterprise, or the spouse, parent, child, or spouse of a child of a licensee or a person who has an interest in a licensee or casino enterprise, shall not make a *contribution* to a candidate or committee through a legal entity that is established, directed, or controlled by any of the persons described in this subsection . . . . [Emphasis added.]

Your first question asks whether section 7b of the Gaming Act prohibits casino licensees and other persons subject to that section from engaging in political activities on behalf of a political candidate or candidate committee.

Information supplied with your request suggests a concern that the prohibition against making a "contribution," as that term is used in sections 7b(4) and (5) of the Gaming Act, may prohibit casino licensees and other persons subject to those sections from engaging in political activities such as endorsing a political candidate, allowing their names to be used in campaign literature, or serving as officers for a candidate's campaign committee.<sup>2</sup>

The Gaming Act does not define the term "contribution." Section 4 of the Michigan Campaign Finance Act (Campaign Finance Act), 1976 PA 388, MCL 169.201 *et seq.*, however, defines the term "contribution" as follows:

(1) "Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question.

(2) Contribution includes the full purchase price of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and other fund-raising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by broadcast media and newspapers not extended on an equal basis to all candidates for the same office; and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is liable.

(3) Contribution does not include any of the following:

(a) Volunteer personal services provided without compensation, or payments of costs incurred of less than \$500.00 in a calendar year by an individual for personal travel expenses if the costs are voluntarily incurred

<sup>1</sup>OAG, 1997-1998, No 7002, pp 206, 210 (December 17, 1998), concluded that sections 7b(4) and (5) of the Gaming Act, to the extent they prohibit political contributions by the spouse, parent, child, or spouse of a child of certain casino-related licensees or interest holders, violate the free speech provisions of the First Amendment to the United States Constitution and are, therefore, unconstitutional.

<sup>2</sup>Section 4d(14) of the Gaming Act expressly prohibits members of the Michigan Gaming Control Board and certain gaming regulators from engaging in "political activity" or "politically related activity." Section 4d(28)(b) defines both terms. Section 4d does not apply to the class of persons identified in section 7b and is not addressed in this analysis.

without any understanding or agreement that the costs shall be, directly or indirectly, repaid.

(b) Food and beverages, not to exceed \$100.00 in value during a calendar year, which are donated by an individual and for which reimbursement is not given.

(c) An offer or tender of a contribution if expressly and unconditionally rejected, returned, or refunded in whole or in part within 30 business days after receipt.

The Campaign Finance Act regulates the financing of and restricts contributions to political campaigns. It was enacted "to ensure the integrity of Michigan's political campaigns and offices, thereby protecting the interest of the public at large, individual citizens, and candidates for political office." Senate Legislative Analysis, SB 1570, December 17, 1976. Section 7b of the Gaming Act also restricts political contributions and, like the Campaign Finance Act, strives to protect and preserve the integrity of Michigan's political process. In OAG, 1997-1998, No 7002, pp 206, 209 (December 17, 1998), the Attorney General concluded that the political contribution limitations contained in section 7b of the Gaming Act further the State's compelling interest in preventing corruption and the appearance of corruption in the political process.

The text of section 7b of the Gaming Act demonstrates that Act's close relationship to the Campaign Finance Act. As used in section 7b of the Gaming Act, the terms "candidate," "committee," "candidate committee," "political party committee," "independent committee," and "ballot question committee" are all defined by reference to the Campaign Finance Act. The legislative history of the various amendments to the Gaming Act also evidences this relationship. Section 7b was among several amendments to the Gaming Act passed by the Legislature as 1997 PA 69. The amendments were enacted on the same day as 1997 PA 71, MCL 169.230, an amendment to the Campaign Finance Act prohibiting a committee from accepting a contribution from a person prohibited from making a contribution under section 7b of the Gaming Act. This amendment to the Campaign Finance Act was tie-barred to the amendments to the Gaming Act.<sup>3</sup>

Statutes that relate to the same person or thing, or to the same class of persons or things, or which share a common purpose are *in pari materia* and must be read together as constituting one system of law. *People v Webb*, 458 Mich 265, 274; 580 NW 2d 884 (1998). The rule is especially applicable where, as here, the statutory provisions in question were passed in the same legislative session and simultaneously approved by the Governor. *Reed v Secretary of State*, 327 Mich 108, 113; 41 NW 2d 491 (1950). Statutes that are *in pari materia* must be construed uniformly and consistently to achieve the intent of the Legislature. *Palmer v State Land Office Bd*, 304 Mich 628, 636-637; 8 NW 2d 664 (1943). The object of the *in pari materia* rule is to give effect to the legislative purpose as found in harmonious statutes on the same subject. *Webb, supra*, at 274. In deciding whether to apply this rule, courts often examine legislative history to "ascertain the uniform and consistent purpose of the legislature." *Palmer, supra*, at 636-637.

Section 7b of the Gaming Act and section 4 of the Campaign Finance Act are *in pari materia* and must, therefore, be read together. Both acts share a common purpose and subject matter -- the regulation of political contributions and the protection of Michigan's political process. Reading them together promotes the uniform and consistent regulation of casino-related political contributions. The Legislature, on the same day, amended both acts and also enacted the Casino Interest Registration Act as a comprehensive plan regulating casino-related political

<sup>3</sup>Section 1 of 1997 PA 71 states that: "This amendatory act does not take effect unless Senate Bill No. 569 of the 89<sup>th</sup> Legislature is enacted into law." SB 569 was enacted as 1997 PA 69. 1997 PA 71 and 1997 PA 69 were approved and filed with the Secretary of State on the same day. 1997 Journal of the Senate 1351, 1352.

contributions. Application of the Campaign Finance Act's definition of "contribution" to sections 7b(4) and (5) of the Gaming Act serves to harmonize both acts and is consistent with the intent of the Legislature. A contrary conclusion would lead to the absurd result that a contribution made under section 7b of the Gaming Act would have a different meaning than a contribution *accepted* by a committee under the Campaign Finance Act.

In applying the Campaign Finance Act's definition of "contribution" to sections 7b(4) and (5) of the Gaming Act, it is clear that political activities such as endorsing a political candidate, allowing one's name to be used in campaign literature, or serving as a member of a candidate committee do not violate section 7b of the Gaming Act so long as those services are provided "without compensation." Campaign Finance Act, section 4(3)(a).

It is my opinion, therefore, in answer to your first question, that section 7b of the Michigan Gaming Control and Revenue Act does not prohibit casino licensees and other persons subject to that section from engaging in political activities on behalf of a political candidate or candidate committee. Such activities do not constitute a "contribution" as defined by section 4 of the Campaign Finance Act.

Your second question asks whether section 7b of the Michigan Gaming Control and Revenue Act prohibits casino licensees and other persons subject to that section from making a non-monetary contribution to a political candidate or candidate committee.

Information supplied with your request describes such non-monetary contributions as the provision of goods or services, making loans, or making facilities available to a political candidate or candidate committee.

In answering your first question, it was concluded that the definition of "contribution" as provided in section 4 of the Campaign Finance Act must be applied to sections 7b(4) and (5) of the Gaming Act. Applying this conclusion, it is clear that any non-monetary contribution that falls within the definition of "contribution" contained in section 4 of the Campaign Finance Act is prohibited. This includes the provision of goods or services that have an ascertainable monetary value (subject to specific statutory exemptions), making loans, or, under certain circumstances, making facilities available to a political candidate or candidate committee.

It is my opinion, therefore, in answer to your second question, that section 7b of the Michigan Gaming Control and Revenue Act prohibits casino licensees and other persons subject to that section from making a non-monetary contribution to a political candidate or candidate committee that would constitute a "contribution" as defined by section 4 of the Michigan Campaign Finance Act.

JENNIFER M.GRANHOLM  
*Attorney General*

**BOARDS AND COMMISSIONS: Application of Freedom of Information Act to city retirement board****CITIES:****FREEDOM OF INFORMATION ACT:****OPEN MEETINGS ACT: Application of Open Meetings Act to city retirement board****PUBLIC BODY:**

**The board of trustees of a retirement system established and administered by a home rule city charter is a "public body" subject to the Open Meetings Act and the Freedom of Information Act.**

Opinion No. 7087

August 21, 2001

Honorable Raymond E. Basham  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked whether a board of trustees of a municipal retirement system established by a home rule city charter is a "public body" under the Open Meetings Act and the Freedom of Information Act.

The Open Meetings Act (OMA), 1976 PA 267, MCL 15.261 *et seq.*, requires a public body to open all of its meetings to the public, and to make all of its decisions in meetings open to the public, subject to limited exceptions. OAG, 1981-1982, No 6053, p 616 (April 13, 1982). Its purpose is "to promote a new era in governmental accountability" and to foster "openness in government as a means of promoting responsible decision making." *Booth Newspaper, Inc v Univ of Michigan Bd of Regents*, 444 Mich 211, 222-223; 507 NW2d 422 (1993). The Michigan Supreme Court has said that the act should be broadly interpreted and its exemptions strictly construed. *Id.* at 223. The OMA defines the term "[p]ublic body" to include "any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, which is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function. . . ." OMA, section 2(a). (Emphasis added.) Only bodies empowered by law to exercise governmental or proprietary authority are included within this definition. OAG, 1997-1998, No 6935, pp 18, 19 (April 2, 1997). The Michigan Court of Appeals has acknowledged that a township board and township planning commission are "public bodies" under the OMA. *Ryant v Cleveland Twp*, 239 Mich App 430, 434 (2000). The Attorney General has opined that a county concealed weapons licensing board is a "public body" under the OMA. OAG, 2001-2002, No 7073, p 7, 8 (January 23, 2001). A public university's board of regents is a "public body" under the OMA. *Booth Newspapers Inc, supra*, at 225.

The Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231 *et seq.*, entitles members of the public to inspect and copy or receive copies of public records prepared, owned, used, in the possession of, or retained by, a public body in the performance of an official function. The FOIA defines the term "public body" to include "a city . . . or a board, department, commission, council or agency thereof," and "[a]ny . . . body which is created by state or local authority or which is primarily funded by or through state or local authority." Section 2(d)(iii) and (iv).

The electors of a home rule city may, by charter provision, establish a retirement system for city employees to receive employer and employee contributions, and to

administer benefits and other retirement plan provisions. *Bowler v City Controller*, 228 Mich 434, 437-439; 200 NW 258 (1924); *Division 26 v Detroit*, 330 Mich 195, 210-211; 47 NW2d 70 (1951); *Detroit Police Officers Ass'n v Detroit*, 391 Mich 44, 66; 214 NW2d 803 (1974). A home rule city may also establish a retirement system for its employees by ordinance of its legislative body. *Hubbard v Dearborn Retirement System Bd of Trustees*, 319 Mich 395, 399; 29 NW2d 779 (1947); OAG, 1943-1944, No 24444, p 73 (August 27, 1942).

While the specific duties of the board of trustees of a municipal retirement system established by charter would be as set forth in its charter, Michigan cases have discussed the types of governmental duties performed by these boards. First, these boards interpret city charter provisions governing pensions provided for a municipality's officers and employees. *Lansing Fire Fighters Assn v Lansing Policemen's & Firemen's Retirement System Bd of Trustees*, 90 Mich App 441, 445; 282 NW2d 346 (1979). Second, these boards make important decisions affecting city government, such as computing the city's contribution liability to the fund, and how to invest the pension funds. How the pension funds are invested in turn affects both the amount of city contributions and the amount of city employee contributions. *Detroit v Michigan Council 25, AFSCME*, 118 Mich App 211, 218-219; 324 NW2d 578 (1982).

In light of these authorities, it is apparent that when a board of trustees administers a public pension system, it is carrying out a governmental responsibility. Therefore, these boards meet the definition of "public body" in section 2 (a) of the OMA as a "board . . . empowered by . . . charter . . . to exercise governmental . . . authority or perform a governmental . . . function." Since the board described in your question is a city board created by city charter, it likewise constitutes a "public body" as a "body which is created by . . . local authority or which is primarily funded by or through . . . local authority" under section 2(d)(iii) and (iv) of the FOIA.

It is my opinion, therefore, that a board of trustees of a municipal retirement system established by a home rule city charter is a "public body" under the Open Meetings Act and the Freedom of Information Act.

JENNIFER M. GRANHOLM  
*Attorney General*

**HEALTH MAINTENANCE ORGANIZATION: Health care insurer's duty to provide coverage for certain medications necessary for treatment of diabetes****INSURANCE:**

**Commercial insurance carriers that provide an expense-incurred hospital, medical, or surgical policy or certificate delivered or issued for delivery in this state must, under 2000 PA 425, include coverage for those items listed in subsections (4)(a)-(c) of section 3406p for the medically necessary treatment of diabetes if the insurer's policy or certificate provides outpatient pharmaceutical coverage directly or by rider.**

Opinion No. 7088

August 28, 2001

Honorable Raymond M. Murphy  
State Senator  
The Capitol  
Lansing, Michigan 48913

You have asked if commercial insurance carriers that provide an expense-incurred hospital, medical, or surgical policy or certificate delivered or issued for delivery in this state must, under 2000 PA 425, include coverage for those items listed in subsections (4)(a)-(c) of section 3406p for the medically necessary treatment of diabetes without regard to whether the insurer's policy or certificate provides outpatient pharmaceutical coverage directly or by rider.

The Insurance Code of 1956 (Insurance Code), MCL 500.100 *et seq*, consolidates the laws relating to the insurance business. 2000 PA 425 (Act 425) amended the Insurance Code by adding new section 3406p. Your question seeks an interpretation of the language of subsection 4 of section 3406p of Act 425, which provides that:

(4) An expense-incurred hospital, medical, or surgical policy or certificate delivered or issued for delivery in this state and a health maintenance organization contract *that provides outpatient pharmaceutical coverage directly or by rider* shall include the following coverage for the treatment of diabetes, if determined to be medically necessary:

- (a) Insulin, if prescribed by an allopathic or osteopathic physician.
- (b) Nonexperimental medication for controlling blood sugar, if prescribed by an allopathic or osteopathic physician.
- (c) Medications used in the treatment of foot ailments, infections, and other medical conditions of the foot, ankle, or nails associated with diabetes, if prescribed by an allopathic, osteopathic, or podiatric physician. [Emphasis added.]

You inquire whether the phrase "that provides outpatient pharmaceutical coverage directly or by rider" modifies only the word "contract" applicable to a health maintenance organization (HMO) or whether it also modifies the words "policy" and "certificate" delivered or issued for delivery in this state by a commercial insurer. Because the language is susceptible to more than one interpretation, an ambiguity exists within section 3406p(4) of Act 425. This ambiguity is important because one of these interpretations creates a significant difference in the obligations of commercial insurers as opposed to HMOs.

Where language employed by the Legislature is susceptible to more than one interpretation, judicial construction is justified in order to give effect to the Legislature's intent. *Rowell v Security Steel Processing Co*, 445 Mich 347, 353; 518 NW2d 409 (1994). It is a general rule of statutory construction that a modifying phrase is confined solely to the last antecedent, *unless a contrary intention appears*. *Sun Valley Foods Co v Ward*, 460 Mich 230; 236; 596 NW2d 119 (1999). Even a

literal reading of a statute may be modified "if that reading leads to a clear or manifest contradiction of the apparent purpose of the act." *People v Preuss*, 436 Mich 714, 721; 461 NW2d 703 (1990).

The primary goal of statutory interpretation is to ascertain and give effect to the Legislature's intent. *McJunkin v Cellasto Plastic Corp*, 461 Mich 590, 598; 608 NW2d 57 (2000). In determining legislative intent, it is often instructive to examine proposed legislation as introduced and to track its evolution and amendments, if any, as it progresses through the Legislature. *Nation v WDE Electric Co*, 454 Mich 489, 497; 563 NW2d 233 (1997). Act 425 originated as SB 261, introduced on February 4, 1999. As introduced, SB 261 purported to amend the Insurance Code by adding new section 3406n, which applied *only* to commercial insurers. SB 261 did not apply to HMOs because, at that time, HMOs were regulated pursuant to Part 210 of the Public Health Code, 1978 PA 368, MCL 333.21001 *et seq*. On the same day that SB 261 was introduced, however, the Senate also introduced SB 262, which amended the Public Health Code to mandate the identical coverages for HMOs as SB 261 mandated for commercial insurers. As introduced, both SB 261 and SB 262 mandated coverage for insulin and oral agents for controlling blood sugar. There were no exceptions to this mandated coverage as applied to either commercial insurers or HMOs.

On March 18, 1999, the Senate adopted SB 261 (S-2) as a substitute for SB 261. SB 261 (S-2) modified the requirements imposed on commercial insurers with respect to the mandated coverages for insulin and oral agents for controlling blood sugar by adding the phrase "that provides outpatient pharmaceutical coverage directly or by rider." On the same day, the Senate also adopted SB 262, pertaining to HMOs. SB 262 did not, however, contain the same modifying phrase as used in SB 261 (S-2). Thus, SB 262 mandated that an HMO provide insulin and oral agents for controlling blood sugar whether the HMO provided outpatient pharmaceutical coverage directly or by rider.<sup>1</sup>

On November 30, 2000, the House passed SB 261 (H-3) which mandated coverages for both HMOs and commercial insurers in a single act amending the Insurance Code. SB 261 (H-3) contained the same modifying phrase "that provides outpatient pharmaceutical coverage directly or by rider" as in SB 261 (S-2). Like SB 261 (S-2), SB 261 (H-3) applied this modifying phrase *only* to commercial insurers. Similar to SB 262, no such modifying phrase was applied to the coverage mandated for HMOs.

On December 5, 2000, the Senate voted against SB 261 (H-3) and referred the matter to conference committee. One week later, a conference report issued. 2000 Journal of the Senate 2086 (No. 78, December 13, 2000). The report stated, "That the Senate and House agree to the Substitute of the Senate [S-2] as passed by the Senate, amended to read as follows: . . . ." In the amendment to SB 261 (S-2) recommended by the conference committee, the words "health maintenance organization" were added as in SB 261 (H-3), but the modifying phrase was transposed in the bill to appear subsequent to the reference to HMOs. The conference committee's specific approval of SB 261 (S-2) evidences its intent to retain the modifying phrase's applicability to commercial insurers. The placement of the modifying phrase following the reference to HMOs evidences its intent to apply it to both commercial insurers and HMOs. The amended form of SB 261 (S-2) contained in the conference report was the form that was ultimately adopted by both the Senate and House and became 2000 Enrolled SB 261.

The legislative analysis of Enrolled SB 261 further confirms that the modifying phrase applies to *both* commercial insurers and HMOs:

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<sup>1</sup>On June 29, 2000, 2000 PA 252 was enacted. It repealed Part 210 of the Public Health Code and transferred full responsibility for the regulation of HMOs to the Commissioner of the Office of Financial and Insurance Services under chapter 35 of the Insurance Code.

Under Senate Bill 261, if an *insurer or HMO* issued a policy or contract providing outpatient pharmaceutical coverage directly or by rider, then the policy or contract would have to include coverage for insulin or non-experimental medication for controlling blood sugar, if determined to be medically necessary and prescribed by a physician. Senate Legislative Analysis, SB 260 and 261, January 4, 2001. [Emphasis added.]

It is my opinion, therefore, that commercial insurance carriers that provide an expense-incurred hospital, medical, or surgical policy or certificate delivered or issued for delivery in this state must, under 2000 PA 425, include coverage for those items listed in subsections (4)(a)-(c) of section 3406p for the medically necessary treatment of diabetes if the insurer's policy or certificate provides outpatient pharmaceutical coverage directly or by rider.

JENNIFER M. GRANHOLM  
*Attorney General*

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**NONPROFIT CORPORATION: Property tax exemption for nonprofit organization's property during rehabilitation and renovation of property**

**REAL ESTATE:**

**TAXATION:**

**TAX EXEMPTION:**

**Real property acquired for neighborhood or economic revitalization by a nonprofit organization possessing federal tax-exempt status under 26 USC 501(c)(3) is not, on those grounds alone, exempt from property tax under the state General Property Tax Act during the period of its rehabilitation and renovation.**

Opinion No. 7089

August 28, 2001

Honorable Mark Schauer  
State Representative  
The Capitol  
Lansing, MI 48909

You have asked whether real property acquired for neighborhood or economic revitalization by a nonprofit organization possessing federal tax-exempt status under 26 United States Code 501(c)(3) is exempt from property tax under the state General Property Tax Act during the period of its rehabilitation and renovation.

Under the state General Property Tax Act (GPTA), 1893 PA 206, MCL 211.1 *et seq.*, all land, buildings, fixtures, and appurtenances<sup>1</sup> thereto are subject to annual property taxes, unless "expressly exempted." Section 2(1). The applicable rule stated in 2 *Cooley on Taxation* (4th ed), pp 1403-1404, has often been quoted with approval by Michigan appellate courts: "Exemptions from taxation 'must be expressed in clear and unmistakable terms . . . Exemptions are never presumed, the

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<sup>1</sup>Things belonging to the land or buildings.

burden is on the claimant to establish clearly his right to exemption, and an alleged grant of exemption will be strictly construed and cannot be made out by inference or implication but must be beyond reasonable doubt." *Detroit v Detroit Commercial College*, 322 Mich 142, 149; 33 NW2d 737 (1948); *Evanston YMCA Camp v State Tax Comm*, 369 Mich 1, 8; 118 NW2d 818 (1962); *American Concrete Institute v State Tax Comm*, 12 Mich App 595, 606-607; 163 NW2d 508 (1968).

The GPTA provides several exemptions from taxation for property owned and operated by nonprofit organizations and for certain other structures and facilities. See generally, sections 7-7ff.<sup>2</sup> A review of the GPTA, however, discloses no provision expressly or even impliedly exempting a nonprofit organization's lands and structures based solely on the fact that the property is being rehabilitated or renovated for neighborhood or economic revitalization.

Moreover, none of the GPTA's exemptions are conditioned upon the owner, who claims the exemption, possessing federal income tax-exempt status under 26 USC 501(c)(3).<sup>3</sup> Indeed, the Michigan Court of Appeals has ruled that exemption from property taxes is not determinable by a tax-exempt status under 26 USC 501(c)(3). *American Concrete Institute, supra*. There the court stated that: "The Institute's exemption from Michigan ad valorem tax is not determinable by its qualification as an organization exempt from [federal] income tax under section 501(c)(3) of the internal revenue code of 1954, but by the much more strict provisions of the Michigan general property tax act . . . ." 12 Mich App at 606.

It is my opinion, therefore, that real property acquired for neighborhood or economic revitalization by a nonprofit organization possessing federal tax-exempt status under 26 USC 501(c)(3) is not, on those grounds alone, exempt from property tax under the state General Property Tax Act during the period of its rehabilitation and renovation.

The Legislature is, of course, free to amend the GPTA if it determines that a nonprofit organization's lands and structures should be eligible for a tax exemption while undergoing rehabilitation and renovation.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>2</sup>For example, the GPTA exempts certain lands and structures, including the following:

1. New or rehabilitated structures and lands upon which they are located owned by a nonprofit organization "for occupancy or use solely by elderly or disabled families." GPTA, section 7d(1).
2. Structures located in a downtown development district used or converted for use for multifamily housing purposes and possessing a commercial housing facilities exemption issued pursuant to MCL 207.601 *et seq.* for a limited period of not to exceed 12 years. GPTA, section 7i.
3. Commercial housing facilities for which a commercial facility exemption certificate is issued under MCL 207.601 *et seq.* for a period the exemption certificate is in force, but not upon the land on which the facility is located. GPTA, section 711.7j.

<sup>3</sup>26 USC 501(c)(3) exempts from federal income taxes certain qualifying entities, including those organized and operated for religious, charitable, scientific, or literary purposes.

**COLLEGES AND UNIVERSITIES: Geographical limitation on public school academy authorized by federal tribal community college**

**NATIVE AMERICANS:**

**PUBLIC SCHOOL ACADEMIES:**

**SCHOOLS AND SCHOOL DISTRICTS:**

**A public school academy authorized by a federal tribally controlled community college is subject to the geographical limitations contained in section 502(2)(c) of the Revised School Code and must therefore be located within the boundaries of the tribal community college district in Michigan.**

Opinion No. 7090

September 18, 2001

Honorable Mike Pumford  
State Representative  
The Capitol  
Lansing, MI

Honorable Ron Jelinek  
State Representative  
The Capitol  
Lansing, MI

Honorable Pan Godchaux  
State Representative  
The Capitol  
Lansing, MI

Honorable Michael Switalski  
State Representative  
The Capitol  
Lansing, MI

Honorable Joseph Rivet  
State Representative  
The Capitol  
Lansing, MI

Honorable John Hansen  
State Representative  
The Capitol  
Lansing, MI

You have asked whether a public school academy authorized by a federal tribally controlled community college is, under the Revised School Code, subject to any geographical limitations.

The Revised School Code (Code), 1976 PA 451, MCL 380.1 *et seq*, provides a system of public instruction. Generally speaking, school districts are charged with the education of their pupils and may provide, *inter alia*, preschool, adult education and recreation programs, as authorized by the Legislature. Section 11a.

Public school academies, often called "charter schools," are governed by Part 6A of the Code, MCL 380.501 *et seq*. A public school academy is a public school organized as a nonprofit corporation that is administered by a board of directors. Sections 501(1) and 502(1). The person or entity wishing to form a public school academy must apply to and contract with an "authorizing body" before a public school academy may be established. Section 502(3). Section 504(3), which prohibits a public school academy from enrolling pupils who are not residents of Michigan and requires that the academy be open to all pupils who reside in the geographic boundaries of the authorizing body, provides in pertinent part as follows:

(3) . . . Enrollment in the public school academy may be open to all individuals who reside in this state who meet the admission policy and shall be open to all pupils who reside within the geographic boundaries, if any, of the authorizing body as described in section 502(2)(a) to (c) who meet the admission policy, except that admission to a public school academy authorized by the board of a community college to operate, or operated by the board of a community college, on the grounds of a federal military installation, as described in section 502(2)(c), shall be open to all pupils who reside in the county in which the federal military installation is located.

An authorizing body of a public school academy may be the board of a school district that operates grades K-12, an intermediate school board, *the board of a community college*, or the governing board of a state public university. Section 502(2). The term "community college" is defined in section 501(2)(c) to include federal tribally controlled community colleges.

(c) "Community college" means a community college organized under the community college act of 1966, Act No. 331 of the Public Acts of 1966, being sections 389.1 to 389.195 of the Michigan Compiled Laws, or *a federal tribally controlled community college that is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, 92 Stat. 1325, [25 USC 1801 et seq], and is determined by the department to meet the requirements for accreditation by a recognized regional accrediting body.* [Emphasis added.]

As originally enacted in 1993, section 502(2)(c) of the Code prohibited a community college board from issuing a contract for a public school academy to operate "outside the boundaries of the community college district." 1994 PA 416 amended section 502(2)(c) to permit the award of a contract for one public school academy to operate on the grounds of an active or closed federal military installation located outside the boundaries of the community college district if the community college district had previously offered courses on such grounds for at least ten years. 1995 PA 289 further amended section 502(2)(c) to remove the limitation upon the total number of contracts that a community college board could issue for public school academies to be operated. But each of these amendments retained the limitation that public school academies be operated within the boundaries of the community college district, except for a public school academy operated on a federal military installation.

By 2000 PA 231, which added section 1475 to the Code, the Legislature declared that a federal tribally controlled community college "may provide college level courses or participate in other activities" under the Code only if all of the following are in effect:

1. The federal tribally controlled community college board members take the constitutional oath of office as public officers of this state.
2. The members of such board certify to the Michigan Department of Education that they will act as a public educational body or officer of the state subject to the Constitution and laws of the state, and to the exclusive control of the state, and
3. The members of the board shall be subject to removal or suspension by the superintendent of public instruction for violating the provisions of the Code.

This addition to the Code is significant in light of the Michigan Supreme Court's decision in *Council of Organizations v Governor*, 455 Mich 557; 566 NW2d 208, 78 ALR5th 767 (1997). In upholding the constitutionality of Part 6A of the Code, the court found that "public school academy board members are public officials and are subject to all applicable law pertaining to public officials." 455 Mich at 585.

To determine the Legislature's intent in enacting sections 501 and 502 of the Code, it is necessary to focus upon the language of these provisions. If the words used are clear and unambiguous, the statute should be given effect as it is written. *Turner v Auto Club Ins Ass'n*, 448 Mich 22, 27; 528 NW2d 681 (1995). By defining the term "community college" to include "a federal tribally controlled community college," the Legislature clearly intended to empower a federal tribally controlled community college to authorize a public school academy, provided, however, that the board of such college complies with the requirements imposed by section 1475 of the Code, *supra*.

Regarding any geographical limitation upon a public school academy authorized by a community college board, the language in section 502(2)(c) is equally plain. It provides that a public school academy authorized by a community college board "shall not operate outside the boundaries of the community college district." *Id.*

Regarding a public school academy authorized and established by a board of a community college organized under the Community College Act of 1966, 1966 PA 331, MCL 389.1 *et seq*, the boundaries of the authorizing district are readily ascertainable in accordance with provisions of that law. The Community College Act of 1966 authorizes the formation of community college districts generally to consist of one or more contiguous counties (section 11), a single school district (section 31(2)), two or more contiguous school districts (section 31), an intermediate school district or two or more adjoining intermediate school districts (section 51).

A federal tribally controlled community college is one formally sanctioned or chartered by the governing body of an Indian tribe. See 25 USC 1801(4). The formal charter of a federal tribally controlled community college establishes the geographic boundaries of the college district.

It is my opinion, therefore, that a public school academy authorized by a federal tribally controlled community college is subject to the geographical limitations contained in section 502(2)(c) of the Revised School Code and must therefore be located within the geographical boundaries of the tribal community college district in Michigan.

JENNIFER M. GRANHOLM  
*Attorney General*

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**COURTS, DISTRICT: Eligibility of sitting district court judge to run for different district court judgeship****ELECTIONS: Necessity of filing nominating petitions to register candidacy for district court judgeship****JUDGES:**

**A sitting district court judge is eligible to run for a district court judgeship in a different division of the same court provided that he or she satisfies the residency and other requirements for election to that office.**

**A sitting district court judge, in order to become a candidate for a judgeship in another division of the same district court, must file the appropriate nominating petitions under section 467b of the Michigan Election Law.**

Opinion No. 7091

October 16, 2001

Honorable Bill Bullard, Jr.  
State Senator  
The Capitol  
Lansing, MI

You have asked two questions concerning the eligibility of a district court judge to run for another district judgeship seat and the filing requirements that would govern such a candidacy.

Your first question asks whether a sitting district court judge, before the expiration of the judge's term and while maintaining office, may run for a district judgeship in a different division of the same court.

Information supplied by your office indicates that a sitting judge in the 52 District Court, Division 1, who is a resident of White Lake Township in Oakland County, wishes to run in the November 2002 election for a district judgeship on the 52 District Court, Division 2. Because the judge was elected in November 1998 for a six-year term that commenced on January 1, 1999, his current term does not expire until noon on January 1, 2005. The term of office for the open seat on the 52 District Court, Division 2, to be elected in November 2002, will be from January 1, 2003, until January 1, 2009. See MCL 168.467i.

Public Acts 447-449 of 2000 reorganized the 52 District Court. Effective January 1, 2003, White Lake Township will be transferred from the first election division of the 52 District Court to the second election division. 2000 PA 448, section 8123(10), MCL 600.8123(10). As part of the court reorganization, Act 448 authorizes the Oakland County Board of Commissioners to approve an additional judgeship for the first election division. Section 8123(10)(a). Following such an approval by the Oakland County Board of Commissioners, the Legislature has provided that a judgeship from the first election division be transferred to the second election division of the 52 District Court, effective January 1, 2003. The judgeship to be transferred is that "filled by the district judge of the first division whose term expires January 1, 2005." *Id.* Thus, assuming such a transfer occurs, the judicial seat in the first election division with a term expiring on January 1, 2005, will be transferred to the second election division of the 52 District Court.

Public elections are governed by the Michigan Election Law, 1954 PA 116, MCL 168.1 *et seq.* Section 467 sets forth the eligibility requirements for district court judges, and provides in pertinent part: "[a] person shall not be eligible for the office of judge of the district court unless the person is a registered and qualified elector of the judicial district and election division in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, is licensed to practice

law in this state, and, at the time of election or appointment, is less than 70 years of age.” Thus, the Election Law imposes a residency requirement, a licensing requirement, and an age requirement. Your first question asks whether a district court judge sitting on the 52 District Court, Division 1, who is a resident of White Lake Township, is eligible to run for a seat on the 52 District Court, Division 2, in November 2002.

Concerning the residency requirement set forth in section 467 of the Election Law, 2000 PA 448 provides the answer. Subsection 10(b) of that act states that, beginning January 1, 2003, White Lake Township will be a part of the 52 District, Division 2. Section 1 of Act 448 further clarifies that “[t]he changes in the composition of first and second election divisions of the fifty-second district court as provided in this amendatory act shall be effective *for election purposes on March 2, 2002*, and for judicial purposes on January 1, 2003.” (Emphasis added.) Additionally, Act 448 states that in 2002 White Lake Township electors will no longer be eligible to vote, be candidates, or sign nominating petitions for the 52 District Court, Division 1, judicial elections. The Legislature has clearly stated that the effective date for election purposes for the reorganization of the 52 District Court is March 2, 2002. Thus, if the sitting 52-1 District Court Judge is still a resident of White Lake Township on March 2, 2002, he will then be a resident of the 52-2 Judicial District. If he maintains his residency, the judge would meet the residency requirements to run for a seat on the 52 District Court, Division 2, in the November 2002 election.

The second eligibility requirement for a district court judgeship, as set forth in section 467 of the Election Law, is the licensing requirement. For purposes of your question, it is assumed that the sitting judge will continue to possess a license to practice law in Michigan and, therefore, satisfy this licensing requirement.

The third eligibility requirement for a district court judgeship, as set forth in section 467 of the Election Law, is the requirement that the candidate be less than 70 years of age at the time of election or appointment to the district court. This statutory requirement parallels the constitutional requirement regarding the age of judicial officers, which states in pertinent part, “[n]o person shall be elected or appointed to judicial office after reaching the age of 70 years.” Const 1963, art 6, § 19. While your letter states that the sitting judge would be barred by his age from seeking reelection at the end of his current term on the 52 District Court, Division 1, you have not indicated how old he will be on election day in November 2002. If the judge is then less than 70 years of age, he will satisfy the statutory and constitutional age provisions governing judicial officers.

Finally, implicit in your first inquiry is the question whether a sitting judge must vacate a current judicial office in order to run for another judicial seat. Your office has advised that if the sitting judge decides to run for the open seat on the 52 District Court, Division 2, it is his intention to retain his current judgeship while seeking election to the 52-2 District Court.

Const 1963, art 6, § 21, provides that “[a]ny justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.” The purpose of this provision is to “divorc[e] the judiciary from the political arena.” Convention Comment, Const 1963, art 6, § 21. But by its express terms, this provision does not prohibit a judge from running for or being elected to another *judicial* office during his or her existing term. Similarly, Code of Judicial Conduct, Canon 7, specifically requires a judge to “resign the judicial office before becoming a candidate either in a party primary or in a general election for *non-judicial* office.” Canon 7(A)(3). (Emphasis added.) Here again, there is no requirement imposed on a judge to resign a current judgeship while running for another judicial office. There are no statutory or constitutional provisions that would require a sitting judge to vacate a currently held judgeship in order to run for another judicial seat or that would otherwise prohibit such a candidacy.

It is my opinion, therefore, in answer to your first question, that a sitting district court judge is eligible to run for a district court judgeship in a different division of the same court provided that he or she satisfies the residency and other requirements for election to that office.

Your second question asks whether the sitting judge, in order to become a candidate for a judgeship in another division of the same district court, must file nominating petitions for that seat.

The Election Law provides that in order to become a candidate for district court judge, a person must file nominating petitions containing, *inter alia*, a minimum number of signatures of qualified and registered electors residing in the judicial district or election division of the office sought. Section 467b(1). This section also provides, however, that an elected "incumbent district court judge may also become a candidate by the filing of an affidavit in lieu of petitions according to section 467c." *Id.* In relevant part, section 467c states:

(1) An incumbent district court judge may become a candidate in the primary election for *the office of which he or she is an incumbent* by filing with the secretary of state an affidavit of candidacy in lieu of nominating petitions not less than 134 days prior to the date of the primary election. . . . The affidavit of candidacy shall contain statements that the affiant is an *incumbent district court judge for the district or election division in which election is sought*, that he or she is domiciled within the district or election division, and that he or she will not attain the age of 70 by the date of election, and a declaration that the affiant is a candidate for election to the office of district court judge. [MCL 168.467c(1); emphasis added.]

In order to file as an incumbent and, thus, avoid the requirement for filing nominating petitions, a judicial candidate must meet the requirements set forth in section 467c. Under section 467c, in order to file as an *incumbent* candidate, the judge must be an incumbent of the specific judicial office to which he or she seeks election. By its inclusion of "election division" in its declaration requirement, section 467c makes clear that it is not just the judicial district that controls the question whether a judge is an incumbent of the judicial office sought. Rather, when a district is subdivided into election divisions, the language of section 467c referencing "election divisions" indicates that it is the particular election *division* that designates a judicial office and grants incumbency status to the holder of that office.

The 52 District Court is divided into two election divisions: Division 1 and Division 2. Therefore, the judicial offices on the 52 District Court, Division 1, and 52 District Court, Division 2, are not the same. Because the subject of your inquiry is a sitting judge of the 52 District Court, Division 1, he is unable to declare by affidavit, as required by section 467c of the Election Law, that he is an incumbent district court judge of the 52 District Court, Division 2.

The above will remain true even if the Oakland County Board of Commissioners creates an additional judgeship on 52 District Court, Division 1, thereby causing the transfer of the judgeship expiring on January 1, 2005, to the 52 District Court, Division 2 (i.e., the judgeship held by the judge on whose behalf this inquiry was made). Section 8123(10)(a). In that event, this statute makes clear that the transfer of the judgeship would be effective January 1, 2003. *Id.* Thus, at the time he files for the open seat on the 52 District Court, Division 2, in 2002, the judge in question would not have held, or be an incumbent of, that judicial seat.

Under the Election Law, each seat held by an individual judge is a separate and distinct judicial office. Section 467b(2), which governs the filing of nominating petitions for district court judges, requires that candidates designate the office for which they seek election, and provides:

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing . . .

- (a) An unspecified existing judgeship for which the incumbent judge is seeking election.
- (b) An unspecified existing judgeship for which the incumbent judge is not seeking election.
- (c) A new judgeship.

It is significant that the Legislature differentiates between the offices of the court. Candidates do not run as a group against all the open seats. Instead, each candidate must designate and compete for a particular seat. Thus, the Legislature has evidenced its intent that each judicial seat on a district court be treated as legally distinct from the other judicial seats on that same court.

Moreover, despite the requirement that district court candidates identify the specific seat sought when filing nominating petitions, the Legislature did not require such specificity of incumbent judges filing affidavits of candidacy. On the contrary, section 467c(1) of the Election Law specifically limits the ability to file a candidacy as an incumbent where a judge is seeking election to “the office of which he or she is an incumbent.” If the Legislature had intended district court incumbent judges to be eligible to file as incumbents for any seat of the court, section 467c would also require the judge to designate, as required in section 467b, exactly what office he or she sought to be elected to. In the absence of such a requirement to specify the judicial office sought, it is reasonable to conclude that an incumbent judge must file nominating petitions when seeking election to any judicial office other than the office he or she presently holds.

It is my opinion, therefore, in answer to your second question, that a sitting district court judge, in order to become a candidate for a judgeship in another division of the same district court, must file the appropriate nominating petitions under section 467b of the Michigan Election Law.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CHILDREN AND MINORS: Noncustodial parent's access to minor's mental health records****MENTAL HEALTH:**

**Section 10 of the Child Custody Act of 1970 does not require disclosure of a minor's mental health services records to the child's noncustodial parent without the consent of the custodial parent required by section 748(6) of the Mental Health Code.**

Opinion No. 7092

October 16, 2001

Honorable Beverly S. Hammerstrom  
State Senator  
The Capitol  
Lansing, MI

You have asked if section 10 of the Child Custody Act of 1970 requires disclosure of a minor's mental health services records to the child's noncustodial parent without the consent of the custodial parent required by section 748(6) of the Mental Health Code.

The Mental Health Code, 1974 PA 258, MCL 330.1001 *et seq.*, provides for the creation and the confidentiality of mental health records. Section 746 requires that current records be maintained for recipients of mental health services and that their content "shall be confidential to the extent it is made confidential by section 748." Section 748(1) restates this confidentiality requirement and provides that information in a recipient's record may be disclosed "only in the circumstances and under the conditions set forth in this section or section 748a."<sup>1</sup>

Section 748 of the Mental Health Code contains two subsections pertinent to your question. The first is subsection (5)(d), which provides that mental health services records *shall* be disclosed "[i]f necessary to comply with another provision of law." A study of the legislative history of this provision indicates that it was originally enacted in 1974 when the Mental Health Code was adopted, and although located under different subsections, its substance has remained unchanged.

The second subsection relevant to your question is subsection (6). This provision, added to the Mental Health Code by 1995 PA 290, governs disclosure of such records to the recipient or, in the case of a minor recipient, to the minor's parent or guardian. It provides that:

(6) Except as otherwise provided in subsection (4), *if consent is obtained from the recipient, the recipient's guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, information made confidential by this section may be disclosed to all of the following:*

(a) A provider of mental health services to the recipient.

(b) The recipient or his or her guardian or *the parent of a minor recipient* or another individual or agency unless in the written judgment of the holder the disclosure would be detrimental to the recipient or others. [Emphasis added.]

Thus, section 748(6) of the Mental Health Code expressly provides that information in a minor child's mental health services records may be released to the child's parent, including a noncustodial parent, only if (i) consent is obtained from the child's custodial parent, and (ii) the record holder does not determine in writing that disclosure would be detrimental to the recipient or others.

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<sup>1</sup> Section 748a of the Mental Health Code, which deals with abused or neglected children, is not implicated by your question.

The second statute germane to your inquiry is the Child Custody Act of 1970 (Child Custody Act), 1970 PA 91, MCL 722.21 *et seq.* Section 10 of that Act provides that:

Notwithstanding any other provision of law, *a parent shall not be denied access to records or information concerning his or her child because the parent is not the child's custodial parent*, unless the parent is prohibited from having access to the records or information by a protective order. As used in this section, "records or information" includes, but is not limited to, medical, dental, and school records, day care provider's records, and notification of meetings regarding the child's education. [Emphasis added.]

This provision was added to the Child Custody Act by 1996 PA 304, effective January 1, 1997. Your inquiry asks, in effect, if this provision constitutes "another provision of law" within the meaning of section 748(5)(d) of the Mental Health Code, effectively requiring disclosure to a noncustodial parent despite the provisions of subsection 748(6) of the Code. You express concern that such a construction could result in the release of a child's mental health records to a parent who may have caused the very harm for which the child is being treated.

A cardinal rule of statutory construction is to ascertain and give effect to the intent of the Legislature. *Browder v Int'l Fidelity Ins Co*, 413 Mich 603, 611; 321 NW2d 668 (1982). Meaning and effect must be given to every word and sentence of a statute, *Robinson v Detroit*, 462 Mich 439, 459; 613 NW2d 307 (2000), so as to produce, if possible, a harmonious result. *Weems v Chrysler Corp*, 448 Mich 679, 699-700; 533 NW2d 287 (1995).

In enacting section 748 of the Mental Health Code, the Legislature clearly expressed its concern over the especially sensitive nature of mental health records by placing stringent restrictions on the dissemination of information contained in those records. Even when the disclosure is sought by the patient, or by a parent or guardian on behalf of a minor patient, the Legislature has seen fit to impose restrictions on disclosure including a provision that the holder of the record may withhold the information if, in the holder's judgment, disclosure "would be detrimental to the recipient or others." Mental Health Code, section 748(6)(b). Significantly, this restriction appears only in subsection (6) of section 748, and not in subsection (5)(d). Thus, if section 10 of the Child Custody Act were to be read as a law requiring disclosure of a child's mental health records to a noncustodial parent, an anomalous result would occur: while the custodial parent would be able to obtain those records only pursuant to section 748(6) of the Mental Health Code, subject to the specific restrictions contained in that provision, the noncustodial parent would be able to obtain the records pursuant to section 748(5), relying on section 10 of the Child Custody Act, without regard to those restrictions. As a result, unless the noncustodial parent were subject to a protective order, as provided in section 10 of the Child Custody Act, he or she would be able to obtain the child's mental health records even if the holder of the records determined that the release would be detrimental to the child or to others under section 748(6)(b) of the Mental Health Code. The noncustodial parent, thus, would possess a greater right of access to the minor's mental health records than the custodial parent. It is unlikely, however, that the Legislature intended this result.

Nor does the plain language of section 10 of the Child Custody Act require such a result. By its plain terms, section 10 prohibits the holder of a minor's health care records from using a parent's lack of custody as a basis for denying access to such records. Nothing in section 10 prohibits the use of other lawful reasons for withholding such records and, more importantly, nothing in that section authorizes or compels the disclosure of records that are otherwise protected from disclosure. In other words, if a parent is entitled to have access to a minor's particular record, section 10 prohibits the holder of that record from denying that access based solely on the parent's lack of custody; it does not, however, create a right of access where no such right would otherwise exist.

As is noted above, section 748 of the Mental Health Code expressly prohibits disclosure of mental health records except as specifically authorized in that section. Disclosure may be made to a parent, including a noncustodial parent, only if (i) consent is obtained from the minor child's custodial parent, and (ii) the record holder does not determine in writing that disclosure would be detrimental to the recipient or others. Under the express terms of section 748(6), disclosure is strictly prohibited if either of these conditions is not met. Moreover, a denial of access based on either of these conditions is not a denial based solely on lack of custody within the meaning of section 10 of the Child Custody Act. To the contrary, even if disclosure is refused due to the lack or refusal of consent by the custodial parent, that denial is predicated on the failure to obtain the legislatively mandated consent of the child's custodial parent, not strictly or solely upon the requesting parent's lack of custody.

If the Legislature concludes that the noncustodial parent of a minor should be afforded a greater degree of access to the minor's mental health records, it may, of course, accomplish this by amending section 748(6) of the Mental Health Code.

It is my opinion, therefore, that section 10 of the Child Custody Act does not require disclosure of a minor's mental health services records to the child's noncustodial parent without the consent of the custodial parent required by section 748(6) of the Mental Health Code.

JENNIFER M. GRANHOLM  
*Attorney General*

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**INCOMPATIBILITY: Assistant county prosecutor serving on municipal utility board**

**PROSECUTING ATTORNEYS:**

**PUBLIC OFFICES AND OFFICERS:**

**The Incompatible Public Offices Act does not prohibit the same person from simultaneously serving as an assistant county prosecuting attorney and as an elected member of a municipal utility board in the same county, in the absence of negotiations for or a contract between the two public bodies or commencement of a civil or criminal action by the county prosecuting attorney against the municipal utility board.**

Opinion No. 7093

October 24, 2001

Mr. Gary Walker  
Marquette County Prosecutor  
234 Baraga Avenue  
Marquette, MI 49855

You have asked whether the Incompatible Public Offices Act prohibits the same person from simultaneously serving as an assistant county prosecuting attorney and as an elected member of a municipal utility board in the same county.

In the Incompatible Public Offices Act (Act), 1978 PA 566, MCL 15.181 *et seq.*, the Legislature has addressed the simultaneous holding of multiple public offices.

Section 2 prohibits public officers and employees from simultaneously holding two or more incompatible offices. Section 1(b) defines "incompatible offices" as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

An assistant prosecuting attorney is a public officer under the Act. OAG, 1977-1978, No 5397, p 677 (November 14, 1978). It is also clear that an elected member of a municipal utility board is a public officer under the Act. See section 1(e)(ii). Thus, both positions are subject to the Act. The duties and responsibilities of each public office must, therefore, be examined to determine whether a prohibited incompatibility exists.

The prosecuting attorney is the chief law enforcement officer of the county. *People v Matulonis*, 60 Mich App 143, 149; 230 NW2d 347 (1975). The prosecuting attorney is empowered to appoint assistant prosecuting attorneys (MCL 49.41), who:

[S]hall hold his office during the pleasure of the prosecuting attorney appointing him, perform any and all duties pertaining to the office of prosecuting attorney at such time or times as he may be required so to do by the prosecuting attorney and during the absence or disability from any cause of the prosecuting attorney. [MCL 49.42.]

Members of a municipal utility board generally manage and operate the municipality's utility in furnishing public utility services provided by the municipality to its residents and others.

The Attorney General has concluded that under the Act, a subordinate and supervisory relationship results where: (1) one office sets and approves the compensation of another office, OAG, 1991-1992, No 6713, p 132 (February 24, 1992); (2) where one office has the power of appointment or removal over another office, OAG, 1995-1996, No 6834, pp 9, 10 (February 3, 1995); or (3) where one office reviews the accounts of the other public office, OAG, 1991-1992, No 6713, *supra*. Applying these standards, the positions of assistant county prosecuting attorney and member of a municipal utility board are neither supervisory nor subordinate to one another and, thus, are not incompatible under sections 1(b)(i) or (ii) of the Act.

Given this conclusion, incompatibility will result only if the holding of both positions results in a breach of duty under section 1(b)(iii) of the Act. A breach of duty arises when a public official holding dual public offices cannot simultaneously protect, promote, or advance the interests of both offices. OAG, 1997-1998, No 6931, pp 5, 7 (February 3, 1997). But, as the words chosen by the Legislature in section 1(b)(iii) of the Act clearly indicate, the action of the public officer in performing his or her duties must first *result* in a breach of duty of a public office in order to give rise to a prohibited incompatibility. OAG, 1979-1980, No 5626, pp 537, 542 (January 16, 1980).

In *Macomb County Prosecuting Attorney v Murphy*, 464 Mich 149, 163-164; 627 NW2d 247 (2001), the Michigan Supreme Court considered the reasoning in OAG, 1979-1980, No 5626. In that case, a public officer simultaneously served as a township trustee and as the county's delinquent personal property tax coordinator voting on a township board decision to continue collecting its own delinquent personal property taxes in the absence of negotiations for or a contract with the county to collect the taxes. There, the court approved the reasoning in OAG, 1979-1980, No 5626, and concluded that vacation of one or the other public position was not required where the county never negotiated with or contracted with the township to collect the township delinquent personal property taxes. The court noted that although voting on the question to continue collecting township delinquent taxes

amounted to disloyalty to the county, it did not warrant vacation of the county public position. 464 Mich at 166, n 15. Under the holding in this case, vacation of one public office or public position is required only when the action taken by the public officeholder *results* in an actual breach of duty. That a breach of duty may occur in the future or that a potential conflict exists does not establish incompatible offices. 464 Mich at 163.

In the absence of a contract or negotiations for a contract between the county and the municipal utility board, there is no basis for concluding that the performance of duties of both public offices would result in an actual breach of duty requiring the public officer to vacate one or the other of the offices. Should the county and the municipal utility board enter into negotiations for or a contract between the two public bodies, vacation of one of the offices, depending upon the specific facts, may be required by section 2(b)(iii) of the Act. Likewise, if the county prosecuting attorney were to commence a civil or criminal action against the municipal utility board, depending on the specific facts, the assistant prosecuting attorney could likely not serve in both public offices and would be required to vacate one of them.

It is noted that OAG, 1985-1986, No 6349, p 238 (March 21, 1986), concluded that an assistant county prosecutor could not simultaneously serve as an elected member of a city council without violating Const 1963, art 3, § 2, which provides for the separation of powers of government. Under the facts in your question, however, the municipal utility board is in the executive branch of government, as is the office of assistant county prosecutor. Thus, OAG, 1985-1986, No 6349, and the separation of powers principle do not apply to your question.

It is my opinion, therefore, that the Incompatible Public Offices Act does not prohibit the same person from simultaneously serving as an assistant county prosecuting attorney and as an elected member of a municipal utility board in the same county, in the absence of negotiations for or a contract between the two public bodies or commencement of a civil or criminal action by the county prosecuting attorney against the municipal utility board.

JENNIFER M. GRANHOLM  
*Attorney General*

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**INCOMPATIBILITY: Trustee of charter township board serving as township assistant fire chief****PUBLIC EMPLOYEES:****PUBLIC OFFICES AND OFFICERS:****TOWNSHIPS:**

**The Incompatible Public Offices Act prohibits a person from simultaneously serving as a trustee on a charter township board and as an assistant township fire chief in the same township.**

Opinion No. 7094

November 27, 2001

Honorable Ruth Ann Jamnick  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked whether the Incompatible Public Offices Act prohibits a person from simultaneously serving as a trustee on a charter township board and as an assistant township fire chief in the same township.

The Incompatible Public Offices Act (Act), 1978 PA 566, MCL 15.181 *et seq*, prohibits a public officer or public employee from simultaneously holding two or more incompatible offices.<sup>1</sup> MCL 15.182. Section 1(b) of the Act defines incompatible public offices as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

As a threshold issue, it must be determined if the Act applies to the two positions identified in your question. Under the Act, the term "public employee" includes an employee of a township [section 1(d)], and the term "public officer" includes a person elected to a township public office. Section 1(e)(ii). A township assistant fire chief, employed by a township, is a public employee. A trustee of a charter township board is elected to public office. MCL 42.5. Thus, each of these positions is subject to the Act. The determination whether the simultaneous holding of the two public offices results in the subordination of one public office to another, or the supervision of one public officer by another, requires an examination of the nature and duties of each position.

The Charter Township Act, 1947 PA 359, MCL 42.1 *et seq*, authorizes the incorporation of a charter township. The act creates a township board composed of a supervisor, township clerk, township treasurer, and four trustees elected by qualified electors of the township. Section 5. A township board is authorized to establish a fire department. Section 13. Although the township supervisor or superintendent is authorized to appoint a fire chief and such other personnel needed to protect persons and property in the township outside the limits of incorporated villages, such appointments are made explicitly *subject to approval of the township board*. Section 13.

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<sup>1</sup> The Act includes several exemptions, including an exemption for municipalities having a population of less than 25,000. Section 3(4)(c).

Section 13 of the Charter Township Act imposes a duty on the charter township board to make and establish rules and regulations for governing the fire department, its employees, firefighters, and officers. This legislative authority to appoint a fire chief and other fire department personnel implicitly includes the authority to fix their compensation. Letter Opinion of the Attorney General to Senator Harry A. DeMaso, dated December 29, 1986; Letter Opinion of the Attorney General to Representative Beverly A. Boden, dated September 11, 1991. In the absence of a township ordinance or delegation of authority by the township board, a charter township supervisor may not unilaterally terminate the employment of a township employee without *prior approval of the township board*. OAG, 1981-1982, No 5939, pp 277, 278 (August 3, 1981). (Emphasis added.)

Since a charter township board is authorized to appoint, fix compensation for, and terminate fire department personnel, as well as adopt rules for the operation of its fire department, it is clear that the position of assistant township fire chief is subordinate to and supervised by the trustees of a charter township board. It follows that the two positions are incompatible under the Act, and therefore a township trustee of a charter township board may not simultaneously occupy the position of assistant fire chief in the same township.

It is my opinion, therefore, that the Incompatible Public Offices Act prohibits a person from simultaneously serving as a trustee on a charter township board and as an assistant township fire chief in the same township.

JENNIFER M. GRANHOLM  
*Attorney General*

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**FREEDOM OF INFORMATION ACT: Public body's authority to limit requester's access to public records based on purpose of request**

**Under the Freedom of Information Act, a public body may not impose a more restrictive schedule for access to its public records for certain persons than it does for the public generally, based solely upon the purpose for which the records are sought.**

Opinion No. 7095

December 6, 2001

Honorable Gretchen Whitmer  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked if, under the Freedom of Information Act, a public body may impose a more restrictive schedule for access to its public records by certain persons than it does for the public generally, based solely upon the purpose for which the records are sought.

Information supplied with your request indicates that some county clerk offices require that persons seeking to inspect public records first identify their purpose for doing so. If the requester identifies the purpose as being genealogical research, the clerk's office imposes a more restrictive schedule for access to the records than it does for other requesters. These county clerk offices have not restricted access to

public records for purposes other than genealogical research.

The Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231 *et seq*, entitles a person to inspect, copy, or receive copies of certain public records of public bodies. The purpose and scope of the FOIA are delineated in the public policy statement set forth in section 1(2).

[A]ll persons . . . are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees . . . so that they may fully participate in the democratic process.

Section 3(1) of the FOIA imposes a duty upon the public body receiving a written request to inspect a particular record described sufficiently to enable the public body to locate the document requested in order to make it available for inspection. The FOIA is a *pro-disclosure* statute requiring access to all public records not specifically exempted by section 13 of the FOIA. *Swickard v Wayne County Medical Examiner*, 438 Mich 536, 544; 475 NW2d 304 (1991).

The FOIA contains no provision requiring the requester to disclose why inspection of a public record is sought. *Kestenbaum v Michigan State University*, 414 Mich 510, 527, 542; 327 NW2d 783 (1982); *State Employees Ass'n v Dep't of Management and Budget*, 428 Mich 104, 121; 404 NW2d 606 (1987). The initial or future uses of the information contained in the records to be inspected are irrelevant to the request to inspect the public record. *CTU-MSU v Michigan State Univ Bd of Trustees*, 190 Mich App 300, 303; 475 NW2d 373 (1991). Accordingly, a public body may not require a person to disclose his or her purpose for inspecting the records as a condition to obtaining access to the records. It follows that a public body may not restrict access to its records based solely on the requester's purpose for inspecting the records.

It is my opinion, therefore, that under the Freedom of Information Act, a public body may not impose a more restrictive schedule for access to its public records for certain persons than it does for the public generally, based solely upon the purpose for which the records are sought.

JENNIFER M. GRANHOLM  
*Attorney General*

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**COUNTIES: County's authority to adopt countywide noise control ordinance****MUNICIPALITIES:****A county board of commissioners in a noncharter county lacks authority to adopt a countywide noise control ordinance.**

Opinion No. 7096

December 26, 2001

Mr. Jeffrey C. Middleton  
 St. Joseph County Prosecuting Attorney  
 P.O. Box 250  
 Centreville, MI 49032-0250

You have asked whether a county board of commissioners in a noncharter county is authorized to adopt a countywide noise control regulation ordinance.

Your request indicates that a county board of commissioners is considering adopting a countywide ordinance prohibiting “any unreasonable or unnecessarily loud noise or disturbance, injurious to the health, peace, or quiet of the residents and property owners of the county.” The proposed ordinance would also list specific violations, including the operation of pneumatic hammers during the period between 10 p.m. and 6 a.m. Violation of the proposed ordinance would be a misdemeanor, punishable by a fine of up to \$500, or imprisonment of up to 90 days, or both.

Counties and other local units of government have only such powers as are granted them by law. *Mosier v Wayne County Bd of Auditors*, 295 Mich 27, 29; 294 NW 85 (1940); *Hanslovsky v Leland Twp*, 281 Mich 652; 275 NW 720 (1937). Michigan statutes authorize specific county ordinances – for example, zoning ordinances (MCL 125.201 *et seq.*), animal control ordinances (MCL 287.289a), and noxious weed ordinances. MCL 247.70. Beyond such instances of express statutory authorization, noncharter counties possess only the authority to adopt ordinances pursuant to section 11(j) of the County Boards of Commissioners Act (County Act), 1851 PA 156, MCL 46.1 *et seq.*, which provides, in relevant part, as follows:

A county board of commissioners, at a lawfully held meeting, may do 1 or more of the following:

\* \* \*

(j) By majority vote of the members of the county board of commissioners elected and serving, *pass ordinances that relate to county affairs* and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the county . . . . [Emphasis added.]

County ordinances must relate to, and are restricted to, affairs of the county and may not interfere with the local affairs of cities, villages, or townships. OAG, 1989-1990, No 6665, pp 401, 403 (November 15, 1990); OAG, 1969-1970, No 4696, pp 197, 200 (November 25, 1970); OAG, 1928-1930, p 477 (July 13, 1929); 1 OAG 1957, No 2973, p 168 (April 12, 1957).

Several Attorney General opinions have concluded that the regulation of various activities exceeded the authority of a county board of commissioners, including a county's regulation of “loud speaking equipment” on automobiles operating on county roads, OAG, 1941-1942, No 22046, p 448 (December 16, 1941); the handling of foodstuffs and beverages, OAG, 1943-1944, No 24970, p 163 (November 24, 1942); Sunday beer sales, OAG 1943-1944, 0-402, p 320 (March 16, 1943); the operation of motor boats, OAG, 1943-1944, No 0-1394, p 563 (October 18, 1943); loitering by minors where liquor is sold, OAG, 1945-1946, No 0-4471, p 639 (March 15, 1946); and Sunday sales of personal property, 1 OAG, 1957, No 2973, p 168 (April 12, 1957).

OAG, No 4696, *supra*, at 200, concluded that noncharter counties would be interfering with cities, villages, and townships by adopting an air pollution control ordinance where cities, villages, and townships already had the power to adopt such ordinances. Similarly, OAG, 1971-1972, No 4741, p 82 (April 3, 1972), concluded that a county lacked authority to adopt an ordinance prohibiting the discharge of firearms within the county.

The proposed countywide noise control ordinance described in your request, if adopted, would apply beyond the affairs of a county, which have been characterized in prior Attorney General opinions as “affairs relating to the county in its organic and corporate capacity and included within its governmental or corporate powers.” See OAG, 1945-1946, No 0-4471, *supra*. On the other hand, it is possible that a noise control ordinance could be adopted by a county board of commissioners, provided that the ordinance was limited to the regulation of noise on property owned or occupied by the county government or its boards, commissions, or agencies. See OAG, No 6665, *supra*, concluding that although counties lack authority to regulate the placement of cigarette vending machines within their respective borders, they may regulate such activity on county property.

Additional support for this limited approach to a countywide noise control ordinance is found in sections 11(l) and (m) of the County Act that authorize a county board to manage the county’s property [subsection (l)] and manage the interests and business concerns of the county [subsection (m)]. Existing statutory provisions, however, do not provide a county board of commissioners with authority to adopt a countywide noise control ordinance since the scope of the proposed ordinance is not limited to county affairs, *i.e.*, the regulation of noise on property owned or occupied by the county government or its boards, commissions, or agencies.

It is my opinion, therefore, that a county board of commissioners in a noncharter county lacks authority to adopt a countywide noise control ordinance.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CAMPAIGN FINANCE ACT: Casino officer or manager making contribution to independent committee**

**CASINOS:**

**ELECTIONS: Independent committee's obligation to return prohibited contribution**

**GAMBLING:**

**POLITICAL ACTIVITY:**

Section 7b of the Michigan Gaming Control and Revenue Act prohibits an officer or managerial employee of a casino, a casino enterprise, or of a licensed casino supplier from making a contribution to an independent committee operated by a professional organization to which the officer or employee belongs.

**An independent committee that receives a contribution prohibited by section 7b of the Michigan Gaming Control and Revenue Act is not subject to a penalty for failure to return the contribution unless the committee first receives a notice from the Secretary of State in accordance with section 30 of the Michigan Campaign Finance Act.**

Opinion No. 7099

January 9, 2002

Honorable Dale L. Shugars  
State Senator  
The Capitol  
Lansing, MI 48909-7536

You have asked two questions both of which concern section 7b of the Michigan Gaming Control and Revenue Act (Gaming Act), 1996 Initiated Law, MCL 432.201 *et seq.*

The scope and purpose of the Gaming Act is described in its title, which states, in part, that it is:

An act to provide for the licensing, regulation, and control of casino gaming operations, manufacturers and distributors of gaming devices and gaming related equipment and supplies, and persons who participate in gaming; . . . *to restrict certain political contributions*; [and] to establish a code of ethics for certain persons involved in gaming; . . . [Emphasis added.]

In furtherance of this purpose, section 7b of the Gaming Act contains provisions that prohibit contributions by certain persons connected with casino operations or with licensed casino suppliers to political candidates and committees, including contributions to an “independent committee” as that term is defined by section 8 of the Michigan Campaign Finance Act, 1976 PA 388, MCL 169.201 *et seq.*<sup>1</sup>

Your first question asks whether section 7b of the Gaming Act prohibits an officer or managerial employee of a casino, a casino enterprise, or of a licensed casino supplier from making a contribution to an independent committee operated by a professional organization to which the officer or employee belongs.

To illustrate your concern, you describe a series of hypothetical situations each involving a certified public accountant who wishes to make a contribution to the Michigan Association of Certified Public Accountants Political Action Committee (MACPAPAC). You advise that MACPAPAC is an independent committee established by the Michigan Association of Certified Public Accountants to identify and make contributions to candidates who support the advancement of the practice of certified public accounting and that it solicits and accepts contributions only from members of the Association. You ask if section 7b of the Gaming Act would operate to prohibit a certified public accountant from contributing to MACPAPAC if the accountant is, for example, (1) an officer of a non-accounting firm that is a licensed casino supplier; (2) employed by, but owns no equity in, a large accounting firm that is licensed as a casino supplier; or (3) the owner of an equity share in a large accounting firm that is licensed as a casino supplier. You also inquire whether it would make a difference if the employee in any of these circumstances had no role in directing or controlling the independent committee.

Subsections 7b(4) and (5) of the Gaming Act provide in pertinent part that:

(4) A licensee or person who has an interest in a licensee or casino enterprise, . . . or person who has an interest in a licensee or casino enterprise, shall not make a contribution to a candidate or a committee . . .

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<sup>1</sup> The Gaming Act regulates, *inter alia*, casino suppliers and requires suppliers to be licensed according to standards set forth in Section 7a. Under the Gaming Act, a “licensee” is a person who holds either a casino license or a supplier’s license. Section 7b(1)(c) and (d).

(5) A licensee or person who has an interest in a licensee or casino enterprise, . . . or a person who has an interest in a licensee or casino enterprise, shall not make a contribution to a candidate or committee through a legal entity that is established, directed, or controlled by any of the persons described in this subsection . . . .

Violation of these provisions is a felony punishable by 10 years imprisonment, a \$100,000 fine, and a permanent bar against receiving or maintaining a casino-related license. Section 18(1)(f) of the Gaming Act. These provisions expressly prohibit contributions to a political candidate or committee not only by a licensee but also by a “person holding an interest” in a licensee or in a casino enterprise.<sup>2</sup> Section 7b(2) specifically defines what shall be considered to be such an interest:

(2) For purposes of this section, a person is considered to have an interest in a licensee or casino enterprise if any of the following circumstances exist:

(a) The person holds at least a 1% interest in the licensee or casino enterprise.

(b) The person is an *officer or managerial employee of the licensee* or casino enterprise as defined by rules promulgated by the board.

(c) The person is an officer of the person who holds at least a 1% interest in the licensee or casino enterprise.

(d) The person is an independent committee of the licensee or casino enterprise. [Emphasis added.]

Thus, the plain and unambiguous terms of section 7b(2)(b) make it clear that any person who is an officer or a managerial employee<sup>3</sup> of a licensee, or of a casino enterprise, is a “person who has an interest in” that licensee or enterprise; such a person is subject to the prohibition in sections 7b(4) and (5) of the Gaming Act. Moreover, while ownership of a financial interest of 1% or more in the licensee or enterprise is sufficient, in and of itself, to give the person an “interest in” the casino licensee or enterprise under section 7b(2)(a), no such financial requirement is included in section 7b(2)(b). Nor does section 7b(2)(b) make any distinction based upon whether the person does or does not play a role in directing the affairs of the independent committee to which the contribution is being made. To the contrary, under the plain language of section 7b(2)(b), the only relevant factor is whether the person is in fact an officer or managerial employee of the licensee or casino enterprise; if so, that person is prohibited from making a contribution to an independent committee even if he or she does not hold a financial interest in the licensee or casino enterprise.

These explicit provisions of section 7b directly address each of the specific examples described in your inquiry:

1. An individual who is an officer in an accounting firm that is a licensed casino supplier is “an officer or managerial employee of” that licensed supplier and, therefore, clearly does “have an interest in” that licensee as defined by

<sup>2</sup>Sections 7b(4) and (5) of the Gaming Act also purport to restrict political contributions by a “spouse, parent, child, or spouse of a child” of certain casino-related licensees or interest holders. OAG, 1997-1998, No 7002, pp 206, 210 (December 17, 1998), concluded that those portions of sections 7b(4) and (5) that purport to prohibit political contributions by a spouse, parent, child, or spouse of a child violate the free speech provisions of the First Amendment to the United States Constitution and are, therefore, unconstitutional.

<sup>3</sup>The Administrative Rules promulgated by the Michigan Gaming Control Board [1998 MR 6, R 432.1101 *et seq*] do not define either “officer” or “managerial employee.” However, the Gaming Act itself defines both terms. A “managerial employee” is defined at section 2(cc) as “a person who by virtue of the level of their remuneration or otherwise holds a management, supervisory, or policy making position with any licensee under this act, vendor, or the board.” Section 7b(1)(e) defines the term “officer” as either of the following: (i) An individual listed as an officer of a corporation, limited liability company, or limited liability partnership. (ii) An individual who is a successor to an individual described in subparagraph (i).

section 7b(2)(b); such an individual would be prohibited from contributing to MACPAPAC under sections 7b(4) and (5).

2. An individual who is employed by a large accounting firm that is licensed as a casino supplier, but who owns no equity interest in that firm, does not have an interest in that licensee within the meaning of section 7b, provided that the individual is neither an officer nor a managerial employee of the licensee; such an employee, therefore, would not be prohibited from making a contribution to MACPAPAC.

3. Finally, the owner of an equity interest in a large accounting firm that is licensed as a casino supplier does have an interest in that licensee if the equity interest is equal to or greater than a 1% interest; such a person, therefore, would be prohibited from contributing to MACPAPAC under sections 7b(4) and (5).

It is my opinion, therefore, in answer to your first question, that section 7b of the Michigan Gaming Control and Revenue Act prohibits an officer or managerial employee of a casino, a casino enterprise, or of a licensed casino supplier from making a contribution to an independent committee operated by a professional organization to which the officer or employee belongs.

Your second question asks whether an independent committee that receives a contribution prohibited under section 7b of the Michigan Gaming Control and Revenue Act is subject to a penalty for failure to return the contribution before the committee is notified by the Secretary of State in accordance with section 30 of the Michigan Campaign Finance Act.

The Campaign Finance Act regulates the financing of political campaigns. It was enacted "to ensure the integrity of Michigan's political campaigns and offices, thereby protecting the interest of the public at large, individual citizens, and candidates for political office." Senate Legislative Analysis, SB 1570, December 17, 1976.

Section 30 of the Campaign Finance Act, which prohibits a committee from knowingly maintaining the receipt of a contribution prohibited under section 7b of the Gaming Act, provides that:

(1) A committee shall not knowingly maintain receipt of a contribution from a person prohibited from making a contribution during the prohibited period under section 7b of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.207b.

The term "knowingly," as it is used in this section, is narrowly defined by section 30(2) as follows:

(2) For purposes this section, a committee is only considered to have knowingly maintained receipt of a contribution prohibited under subsection (1) and is subject to a penalty<sup>4</sup> for that violation if both of the following circumstances exist:

(a) The secretary of state has, by registered mail, notified the committee that the committee has received a contribution in violation of this section and has specifically identified that contribution.

(b) The committee fails to return the contribution identified under subdivision (a) on or before the thirtieth business day after the date the committee receives the notification described in subdivision (a).

Under section 30 of the Campaign Finance Act, a committee that *knowingly* maintains receipt of a prohibited contribution must return it or be subject to a penalty.

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<sup>4</sup>Sections 15 (9)-(11) of the Campaign Finance Act authorize the Secretary of State to investigate alleged violations of the act and, in appropriate cases, to issue an order requiring payment of a civil fine. Section 15(12) authorizes the Secretary of State to refer alleged violations of the act to the Attorney General for consideration of criminal prosecution.

By adopting the very limited definition of the term “knowingly” as provided in sections 30(2)(a) and (b), the Legislature has chosen to require a committee to return a contribution prohibited under section 7b of the Gaming Act only *after* it receives specific written notification from the Secretary of State.

It is my opinion, therefore, in answer to your second question, that an independent committee that receives a contribution prohibited by section 7b of the Michigan Gaming Control and Revenue Act is not subject to a penalty for failure to return the contribution unless the committee first receives a notice from the Secretary of State in accordance with section 30 of the Michigan Campaign Finance Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CONCEALED WEAPONS: Private investigator carrying concealed pistol in gun-free zones**

**FIREARMS:**

**PRIVATE DETECTIVES:**

**A private investigator licensed to carry a concealed pistol is not, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by section 5o of the Concealed Pistol Licensing Act.**

Opinion No. 7097

January 11, 2002

Honorable Doug Spade  
State Representative  
The Capitol  
Lansing, MI

You have asked whether a private investigator licensed to carry a concealed pistol is, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by section 5o of the Concealed Pistol Licensing Act.

Private investigators are licensed under the Private Detective License Act of 1965, 1965 PA 285, MCL 338.821 *et seq.* That act does not, however, authorize a private investigator to carry a concealed pistol.

In the Concealed Pistol Licensing Act (Act), 1927 PA 372,<sup>1</sup> MCL 28.421 *et seq.*, the Legislature has addressed the licensing of persons to carry concealed pistols. Section 5b of the Act contains the requirements for obtaining a license to carry a concealed pistol. Under section 12a, various categories of persons, including peace officers, are made exempt from the requirements of section 5b for obtaining a license to carry a concealed pistol. There is, however, no exemption for private investigators in section 12a or in any other section of the Act. Thus, private investigators may carry concealed pistols only if they are licensed to do so under section 5b of the Act. Once licensed to carry a concealed pistol, private investigators are subject to the Act's restrictions in the same manner as any other person licensed to carry a concealed pistol.

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<sup>1</sup>The Act was significantly revised by amendatory 2000 PA 381.

In 2000 PA 381, the Legislature significantly amended the Concealed Pistol Licensing Act. New section 5b of the Act changed the requirements for obtaining a license to carry a concealed pistol. Under section 5b(7), a county concealed weapon licensing board "shall issue a license to an applicant" who meets the requirements of the Act. Once the board has issued a license, the license holder may, subject to exceptions stated in section 5o, carry a concealed pistol "anywhere in this state."

In section 5o, however, the Legislature enumerated certain so-called gun-free zones, i.e., premises where a person licensed to carry a concealed pistol shall not carry a concealed pistol.

Sec. 5o (1) *An individual licensed under this act to carry a concealed pistol, . . . shall not carry a concealed pistol on the premises of any of the following:*

- a) A school or school property . . . .
- b) A public or private day care center, public or private child caring agency, or public or private child placing agency.
- c) A sports arena or stadium.
- d) A dining room, lounge, or bar area of a premises licensed under the Michigan liquor control code of 1998 . . . . This subdivision shall not apply to an owner or employee of the premises.
- e) Any property or facility owned or operated by a church, synagogue, mosque, temple or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.
- f) An entertainment facility [that has a seating capacity of 2,500 or more].
- g) A hospital.
- h) A dormitory or classroom of a community college, college, or university. [Emphasis added.]

Section 5o of the Act expressly prohibits persons licensed under the Act from carrying concealed pistols in the specified gun-free zones.<sup>2</sup> Nothing in section 5o or in any other section of the Act exempts private investigators from its prohibitions. A clear and unambiguous statement in a statute must be enforced as written according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper v Pettibone Corp*, 450 Mich 565, 572; 542 NW2d 269 (1995). Therefore, a person licensed to carry a concealed pistol, even if that person is a licensed private investigator, must obey section 5o of the Concealed Pistol Licensing Act and shall not carry a concealed pistol in any of the gun-free zones identified in the Act.

This conclusion is not affected by the provisions of section 234d of the Michigan Penal Code, 1931 PA 328, MCL 750.1 *et seq.* That statute prohibits certain persons from possessing firearms on certain types of premises as follows:

Sec. 234d (1) Except as otherwise provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

- a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.
- b) A church or other house of religious worship.
- c) A court.
- d) A theatre.

<sup>2</sup>A person with a license to carry a concealed pistol who carries a pistol on premises protected under section 5o(1)(a)-(h) of the Concealed Pistol Licensing Act is subject to the penalties in section 5o(3)(a)-(c) of the Act. These penalties include fines, license suspension or revocation, and for third time offenders, up to four years imprisonment.

- e) A sports arena.
  - f) A day care center.
  - g) A hospital.
  - h) An establishment licensed under the Michigan liquor control act, . . .
- (2) This section does not apply to any of the following:
- a) A person who owns, or is employed by or contracted by, an entity described in subsection (1) if the possession of that firearm is to provide security services for that entity.
  - b) A peace officer.
  - c) *A person licensed by this state or another state to carry a concealed weapon.*
  - d) A person who possesses a firearm on the premises of an entity described in subsection (1) if that possession is with the permission of the owner or an agent of the owner of that entity. [Emphasis added.]

By its express terms, section 234d prohibits certain persons from carrying a firearm in the enumerated places but explicitly exempts from its prohibition "[a] person licensed by this state or another state to carry a concealed weapon." Thus, any person licensed to carry a concealed pistol, including a private investigator, is exempt from the gun-free zone restrictions imposed by section 234d of the Penal Code and may therefore possess firearms while on the types of premises listed in that statute.

When applied to a private investigator licensed to carry a concealed pistol, there is no inherent conflict between the gun-free zone provisions in section 234d of the Penal Code and those in section 5o of the Concealed Pistol Licensing Act. The former statute, which prohibits firearms in certain protected zones, does not apply to persons who are licensed to carry a concealed weapon.<sup>3</sup> The latter statute, which contains no exemptions, prohibits concealed weapon licensees from carrying a concealed pistol in certain protected gun-free zones. The legislative prohibition in section 5o of the Concealed Pistol Licensing Act is not diminished in any way by section 234d of the Penal Code. When statutes govern the same subject matter and are in *pari materia*, the court must endeavor to construe them harmoniously and to give them reasonable effect. *Speaker v State Administrative Bd*, 441 Mich 547, 568, 579; 495 NW2d 539 (1993).

It is my opinion, therefore, that a private investigator licensed to carry a concealed pistol is not, by reason of section 234d of the Michigan Penal Code, exempt from the gun-free zone restrictions imposed by section 5o of the Concealed Pistol Licensing Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>3</sup>A similar statutory provision criminalizes the possession of weapons in school zones but expressly exempts certain persons, including persons licensed to carry a concealed weapon. MCL 750.237a.

**CONCEALED WEAPONS: Application of Concealed Pistol Licensing Act's licensing requirement to police officer and reserve police officer****FIREARMS:****LAW ENFORCEMENT: Application of Concealed Pistol Licensing Act's gun-free zone restrictions to police officer and reserve police officer****PEACE OFFICERS:****POLICE:**

**A police officer, including a reserve police officer, is exempt from the licensing requirements of the Concealed Pistol Licensing Act if the officer possesses the full authority of a peace officer and is regularly employed and paid by a police agency of the United States, this state, or a political subdivision of the state.**

**A police officer who is exempt from the licensing requirements of the Concealed Pistol Licensing Act, but who voluntarily obtains a concealed pistol license under that act, is not subject to the act's gun-free zone restrictions unless the officer is off-duty and is relying solely on the authority of that license.**

Opinion No. 7098

January 11, 2002

Honorable Christopher D. Dingell  
State Senator  
The Capitol  
Lansing, MI 48913

Honorable Ruth Johnson  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked two questions regarding the treatment of police officers under the Concealed Pistol Licensing Act as most recently amended by 2000 PA 381.

Your first question asks whether a police officer, including a reserve police officer, is required to obtain a concealed pistol license under section 6 of the Concealed Pistol Licensing Act in order to lawfully carry a concealed pistol.

The Concealed Pistol Licensing Act (Act), 1927 PA 372, MCL 28.421 *et seq.*, regulates the possession and carrying of certain firearms. As originally enacted, section 6 of the Act created a county concealed weapon licensing board and granted to that board considerable discretion in determining whether to issue a license to carry a concealed pistol to individual residents of the county. 2000 PA 381 made substantial amendments to the Act and added numerous new provisions. Among these new provisions is a new section 5b(7) that now sets forth the specific qualifications a person must possess in order to receive a concealed pistol license and further provides that the county concealed weapon licensing board "shall issue" licenses to persons meeting all of those qualifications.

Section 12a of the Act, as added by 1964 PA 216, has long provided that the licensure provisions of section 6 do not apply to various classes of persons, including peace officers who are regularly employed and paid by a police agency of the United States, this state, or a political subdivision. That exemption is continued in the current version of the Act. As most recently amended by 2000 PA 381, section 12a of the Act provides, in pertinent part, that:

The requirements of this act for obtaining a license to carry a concealed pistol *do not apply* to any of the following:

- (a) *A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or of a subdivision of this state, except a township constable.* [Emphasis added.]

Thus, in order to come within the scope of this exemption, a person must be a "peace officer" and must be "regularly employed and paid" by a qualifying unit of government.

The term "peace officer" as used in the Concealed Pistol Licensing Act refers to members of police forces of governmental units who have been given broad, general authority by law to enforce and preserve the public peace. *People v Bissonette*, 327 Mich 349, 356; 42 NW2d 113 (1950). Police officers of a police department of a political subdivision of this state possess such authority and are, therefore, "peace officers." 1 OAG, 1955, No 1891, p 72 (February 24, 1955); 2 OAG, 1958, No 3212, p 60 (February 21, 1958). Conversely, police officers who possess only restricted or special enforcement authority do not meet this standard and therefore do not qualify as "peace officers." *People v Bissonette*, *supra*; OAG, 1987-1988, No 6530, p 362 (August 5, 1988).

The phrase "regularly employed" as used in section 12a of the Act has not been defined by the Legislature. The meaning of this phrase, however, was addressed in OAG, 1973-1974, No 4792, p 78 (August 27, 1973), which concluded that in order to be considered "regularly employed," a peace officer's work should be "substantial rather than merely occasional" and should form "at least a large part of his daily activity." *Id.*, at 79. See also OAG, 1979-1980, No 5806, p 1055 (October 28, 1980). Under this standard, a regular police officer who is employed on a full-time basis clearly is "regularly employed" for purposes of section 12a of the Act.

A more difficult problem is presented in the case of reserve police officers who are typically employed on less than a full-time basis. In such cases, it is necessary to address the factual issue of whether the individual officer in question is "regularly employed and paid" within the meaning of section 12a of the Act. OAG No 5806, *supra*, at 1054, considered the status of such reserve officers and concluded that, in order to be exempt from the Act's licensing requirement, a reserve police officer must first apply to the county concealed weapon licensing board to obtain a determination by the board whether the individual officer qualifies for the section 12a exemption. The board must determine, *inter alia*, whether the individual officer is "regularly employed," i.e., whether the officer performs substantial work that constitutes a large part of the officer's daily activity. OAG No 4792, *supra*. If the board finds that a particular reserve police officer is "regularly employed and paid" by a police agency of the United States, this state, or a political subdivision of this state, the officer is exempt from the Act's licensing requirements for carrying a concealed pistol. If, however, the licensing board finds that the reserve officer is not regularly employed and paid by one of such police agencies, licensure is required under the Act before the officer may carry a concealed pistol. OAG No 4792, *supra*, reached the same conclusion with respect to constables.

It is my opinion, therefore, in answer to your first question, that a police officer, including a reserve police officer, is exempt from the licensing requirements of the Concealed Pistol Licensing Act if the officer possesses the full authority of a peace officer and is regularly employed and paid by a police agency of the United States, this state, or a political subdivision of the state.

Your second question asks if a police officer who is exempt from the licensure requirements of the Concealed Pistol Licensing Act, by voluntarily obtaining a license under that Act, becomes subject to the Act's gun-free zone restrictions, either while on or off duty.

As noted in the answer to your first question, the Act clearly and unambiguously exempts regularly employed peace officers from its licensing requirements. Accordingly, such officers need not obtain a license under the Act in order to lawfully carry a concealed pistol. Nothing in the Act, however, prohibits a police officer from voluntarily applying for and obtaining a concealed pistol license if that officer chooses to do so. Moreover, assuming that the officer meets all of the statutory requirements specified in section 5b(7) of the Act, the county licensing board "shall issue" a license to that individual. In these circumstances, the officer would then

possess two separate and independent sources of authority for carrying such a concealed pistol: (1) the officer's authority as a regularly employed peace officer; and (2) the authority conferred by the license issued under the Act. Your questions asks, in effect, whether the statutory restrictions attached to the latter source of authority might somehow modify or restrict the officer's separate authority as a peace officer. Specifically, you inquire about the effect of section 5o of the Act, as added by 2000 PA 381, which creates certain gun-free zones as follows:

(1) An individual licensed under this act to carry a concealed pistol . . . shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private day care center, public or private child caring agency, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A dining room, lounge, or bar area of a premises licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303. This subdivision shall not apply to an owner or employee of the premises.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

The first step in ascertaining legislative intent is to look to the text of the statute. *Piper v Pettibone Corp*, 450 Mich 565, 571; 542 NW2d 269 (1995). Where the language of the statute is clear and unambiguous, the Legislature's intent must be carried out according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper, supra*, at 572.

The gun-free zone restrictions described in section 5o of the Act, by their express terms, apply only to a person who is carrying a concealed pistol under the authority of a license issued under the Act. Nothing in the Act in any way indicates or suggests that the gun-free zone restrictions are to be extended to a police officer acting under his or her authority as a regularly employed peace officer, even if that officer has elected to apply for and obtain a concealed pistol license under the Act. Thus, as a practical matter, the application of these gun-free zone restrictions to a police officer would depend upon the facts and circumstances of the incident. If the officer is off-duty and chooses to rely solely on his or her concealed pistol license under the Act, the Act's gun-free zone restrictions applicable to that license would apply. But those restrictions plainly do not apply if the police officer, whether on or off duty, can and does rely on his or her independent authority to carry a concealed pistol as a peace officer regularly employed and paid by a police agency of the United States, this state, or a political subdivision.

It is my opinion, therefore, in answer to your second question, that a police officer who is exempt from the licensing requirements of the Concealed Pistol Licensing

Act, but who voluntarily obtains a concealed pistol license under that Act, is not subject to the act's gun-free zone restrictions unless the officer is off-duty and is relying solely on the authority of that license.

JENNIFER M. GRANHOLM  
*Attorney General*

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**BANKS AND BANKING: Interest chargeable under the Home Improvement Finance Act**

**CONSTITUTIONAL LAW: Validity of amendment to Home Improvement Finance Act under Const 1963, art 4, § 25**

**FINANCIAL INSTITUTIONS:**

**INTEREST:**

**USURY:**

To the extent the Credit Reform Act purports to set the maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act, it violates Const 1963, art 4, § 25, which prohibits the Legislature from altering or amending a law unless the law is reenacted and published at length, and is therefore of no force and effect. Accordingly, the Credit Reform Act did not change or increase the amount of maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act.

Opinion No. 7100

January 14, 2002

Honorable Ken DeBeaussiaert  
State Senator  
The Capitol  
Lansing, Michigan 48913

You have asked if the Credit Reform Act changed the maximum permissible interest rate that may be charged on installment contracts under the Home Improvement Finance Act.

The Home Improvement Finance Act (HIFA), 1965 PA 332, MCL 445.1101 *et seq.*, provides that “[t]he maximum finance charge included in a home improvement installment contract . . . shall not exceed \$8.00 per \$100.00 per annum,” or 8%. Section 301(1).<sup>1</sup> The Credit Reform Act (CRA), 1995 PA 162, MCL 445.1851 *et seq.*, however, permits a “regulated lender” to “charge, collect, and receive any rate of interest or finance charge for an extension of credit not to exceed 25% per annum.” Section 4(1). Under the CRA, a “regulated lender” includes “a seller under the home improvement finance act,” as well as a bank, and a savings and loan association. Sections 2(e) and (i).

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<sup>1</sup>Additionally, the HIFA provides that a “home improvement charge agreement” may provide for a finance charge of up to 1.2%, or under specified situations 1.375%, on the unpaid balance per month. Section 204b(1). The HIFA defines a “[h]ome improvement charge agreement” [section 102(i)], and enumerates the required content for every home improvement charge agreement. Sections 204a and 204b.

The HIFA extensively regulates home improvement contracts for the modernization, rehabilitation, repair, alteration, or improvement of real property other than the construction of new homes. Section 102(g). The HIFA defines a “[h]ome improvement installment contract” [section 102(l)], and enumerates the required content for every home improvement installment contract. Sections 202 and 203. The HIFA further protects buyers by prohibiting onerous provisions in the contract. Section 206. The HIFA addresses delinquency and collection charges (section 209) and permits prepayment of the outstanding balance. Section 303. HIFA’s comprehensive treatment of home improvement contracts articulates a particular regulatory scheme in a very specific act.

On the other hand, the CRA is a general act that regulates a wide variety of consumer loans. The only reference to the HIFA in the CRA is in its definition of “[r]egulated lender” which includes “a seller under the home improvement finance act, Act No. 332 of the Public Acts of 1965.” Section 2(i). The CRA permits a regulated lender to charge “any rate of interest or finance charge for an extension of credit not to exceed 25% per annum.” Section 4(1). Significantly, section 14 of the CRA provides, “[t]his act does not impair the validity of a transaction, rate of interest, fee, or charge that is otherwise lawful.”

The legislative history of the CRA reveals that it was but one of a ten-bill legislative package. Introduced as HB 4614, the purpose of the CRA was:

[T]o allow depository and non-depository financial institutions in the state to charge, collect, and receive *any* rate of interest on loans made by them. The other bills in the package [HB 4615, 4616, 4617, 4618, 4619, 4620, 4621, 4622 and 4625] would amend different acts that cap the rate of interest that may be charged on various types of loans to permit any rate of interest to be charged on such loans. House Bills 4615 to 4622 and 4625 are all tie-barred to House Bill 4614. [House Legislative Analysis HBs 4614, 4625, 4615, 4616, 4617, 4618, 4619, 4620, 4621, and 4622, May 2, 1995.] [Emphasis added.]

Although in its original form HB 4614 placed no limit upon the maximum interest that could be charged for credit, House Substitute H-7 imposed a maximum 25% limit on the rate of interest or finance charge and, in that form, was approved by both the House and by the Senate. See 1995 Journal of House 1711, 2008; 1995 Journal of the Senate 1617.

HB 4617 sought to amend section 204b(1) of the HIFA to remove the 8% cap on the finance charge to be imposed and to insert a “finance charge as permitted by the credit reform act.” Page 9, lines 18 and 19 of Substitute (H-1) to HB 4617. This bill, however, was never approved by the House. Instead, it was referred to the House Commerce Committee from which it did not reemerge.<sup>2</sup> 1995 Journal of the House 2078. The fact that HB 4617 never became law gives rise to the question whether the CRA is an attempt to amend by reference the HIFA’s cap on interest chargeable on home improvement contracts. Since both the HIFA and CRA purport to set maximum finance charges applicable to home improvement contracts, the answer to your question requires an analysis of Const 1963, art 4, § 25.

The Michigan Constitution is a limitation on general legislative power. *Advisory Opinion on the Constitutionality of 1976 PA 240*, 400 Mich 311, 317-318; 254 NW2d 544 (1977). Const 1963, art 4, § 25, which prohibits the Legislature from revising, altering, or amending a statute merely by reference to its title, provides that:

No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

<sup>2</sup>Similarly, HB 4615 (credit cards, amend sections 1, 10, and 12 of 1984 PA 379, MCL 493.101 *et seq.*), HB 4620 (banks, amend section 191 of 1969 PA 319, MCL 487.491), and HB 4625 (savings and loan association, amend section 718 of 1980 PA 307, MCL 491.718) were not passed by the House but instead were re-referred to the House Committee on Commerce. 1995 Journal of House 2077. The remaining bills in the package, not pertinent to your question, were enacted into law.

In *Advisory Opinion re Constitutionality of 1972 PA 294*, 389 Mich 441, 470; 208 NW2d 469 (1973), the Michigan Supreme Court explained the meaning of Const 1963, art 4, § 25:

Section 25 is worded to prevent the revising, altering or amending of an act by merely referring to the title of the act and printing the amendatory language then under consideration. If such a revision, alteration or amendment were allowed, the public and the Legislature would not be given notice and would not be able to observe readily the extent and effect of such revision, alteration or amendment.

While considering Const 1963, art 4, § 25, the Michigan Supreme Court, in *Alan v Wayne County*, 388 Mich 210, 285; 200 NW2d 628 (1972), recognized that where the Legislature enacts a law with the intent to amend a prior statute so that its operation is narrower or broader than previously stated, without reenacting the amended statute, an unconstitutional statutory amendment occurs. The Court also concluded that if the Legislature's intent is not to amend or alter another statute, the Court would treat both acts as valid and "interpret them as they are written unaffected by subsequent statutes." *Id.*

The CRA's only reference to the HIFA is its definition of "[r]egulated lender" which includes "a seller under the home improvement finance act, Act No. 332 of the Public Acts of 1965." CRA, Section 2(i). As noted by the Michigan Supreme Court in *Alan v Wayne County*, *supra*, the intent of Const 1963, art 4, § 25, is to provide notice of the changes being made to a particular statute. A single definition contained within the CRA that purports to substantively alter or amend the HIFA by reference to its title only, without a full republication of the amended sections of the HIFA, does not provide the type of notice contemplated by Const 1963, art 4, § 25. It must therefore be concluded that to the extent the CRA purports to alter or amend the interest rate ceiling applicable to installment contracts governed by the HIFA, such a change is an amendment by reference that violates Const 1963, art 4, § 25.

It is my opinion, therefore, that to the extent the Credit Reform Act purports to set the maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act, it violates Const 1963, art 4, § 25, which prohibits the Legislature from altering or amending a law unless the law is reenacted and published at length, and is therefore of no force and effect. Accordingly, the Credit Reform Act did not change or increase the amount of maximum permissible interest that may be charged on installment contracts under the Home Improvement Finance Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CRIMINAL LAW: Reserve police officer carrying exposed but holstered handgun is not brandishing firearm in violation of Michigan Penal Code**

**FIREARMS:**

**LAW ENFORCEMENT:**

**PEACE OFFICERS:**

**POLICE:**

**A reserve police officer, by carrying a handgun in a holster that is in plain view, does not violate section 234e of the Michigan Penal Code, which prohibits brandishing a firearm in public.**

Opinion No. 7101

February 6, 2002

Honorable Bill Bullard, Jr.  
State Senator  
The Capitol  
Lansing, MI

You have asked if a reserve police officer, by carrying a handgun in a holster that is in plain view, violates section 234e of the Michigan Penal Code, which prohibits brandishing a firearm in public.

The Michigan Penal Code, MCL 750.1 *et seq.*, revises, consolidates, and codifies the state's criminal statutes. Section 234e(1) of the Code criminalizes<sup>1</sup> the brandishing of a firearm in public as follows:

(1) Except as provided in subsection (2), a person shall not knowingly brandish a firearm in public.

Subsection (2) of the same section states that “[s]ubsection (1) does not apply to . . . [a] peace officer lawfully performing his or her duties as a peace officer.”

The term “peace officer” refers to members of governmental police forces who have been given broad, general authority by law to enforce and preserve the public peace. *People v Bissonette*, 327 Mich 349, 356; 42 NW2d 113 (1950). Most governmental police officers, i.e., officers who are employed by the state or its political subdivisions, possess such authority and are, therefore, “peace officers.” 1 OAG, 1955, No 1891, p 72 (February 24, 1955); 2 OAG, 1958, No 3212, p 60 (February 21, 1958). Conversely, police officers such as motor carrier enforcement officers who possess only restricted or special enforcement authority do not meet this standard and therefore do not qualify as “peace officers.” *People v Bissonette*, *supra*; OAG, 1987-1988, No 6530, p 362 (August 5, 1988). Thus, a reserve police officer with limited law enforcement authority would not qualify as a “peace officer” under subsection 2 of section 234e of the Michigan Penal Code. A reserve police officer with general law enforcement authority who is regularly employed would qualify as a “peace officer” under subsection (2) of section 234e. See OAG, 1973-1974, No 4792, p 78 (August 27, 1973), and OAG, 1979-1980, No 5806, p 1055 (October 28, 1980).

Section 234e of the Michigan Penal Code does not define the crime of brandishing a firearm in public. The Michigan Criminal Jury Instructions, published by the Committee on Standard Criminal Jury Instructions, does not include a

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<sup>1</sup>Violation of this section is a misdemeanor punishable by imprisonment for up to 90 days, or a fine of not more than \$100, or both.

recommended jury instruction on brandishing a firearm. Research discloses that while the term “brandishing” appears in reported Michigan cases,<sup>2</sup> none of the cases define the term.

In the absence of any reported Michigan appellate court decisions defining “brandishing,” it is appropriate to rely upon dictionary definitions. *People v Denio*, 454 Mich 691, 699; 564 NW2d 13 (1997). According to *The American Heritage Dictionary, Second College Edition (1982)*, at p 204, the term brandishing is defined as: “1. To wave or flourish menacingly, as a weapon. 2. To display ostentatiously. –n. A menacing or defiant wave or flourish.” This definition comports with the meaning ascribed to this term by courts of other jurisdictions. For example, in *United States v Moerman*, 233 F3d 379, 380 (CA 6, 2000), the court recognized that in federal sentencing guidelines, “brandishing” a weapon is defined to mean “that the weapon was pointed or waved about, or displayed in a threatening manner.”

Applying these definitions to your question, it is clear that a reserve police officer, regardless whether he or she qualifies as a “peace officer,” when carrying a handgun in a holster in plain view, is not waving or displaying the firearm in a threatening manner. Thus, such conduct does not constitute brandishing a firearm in violation of section 234e of the Michigan Penal Code.

It is my opinion, therefore, that a reserve police officer, by carrying a handgun in a holster that is in plain view, does not violate section 234e of the Michigan Penal Code, which prohibits brandishing a firearm in public.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>2</sup>See, for example: *People v Jones*, 443 Mich 88, 90; 504 NW2d 158 (1993), *People v Kreger*, 214 Mich App 549, 552; 543 NW2d 55 (1995), and *People v Stubbs*, 15 Mich App 453, 455; 166 NW2d 477 (1968).

**CONCEALED WEAPONS: Sheriffs' authority to set fee for fingerprinting applicant for concealed pistol license****COUNTIES:****FIREARMS:****SHERIFFS:****A county sheriff has the authority to set the amount of the fingerprinting fee authorized by section 5b(9) of the Concealed Pistol Licensing Act.**

Opinion No. 7102

March 5, 2002

Honorable Ken Bradstreet  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked whether a county sheriff or a county board of commissioners has the authority to set the amount of the fingerprinting fee authorized by section 5b(9) of the Concealed Pistol Licensing Act.

The Concealed Pistol Licensing Act, 1927 PA 372,<sup>1</sup> MCL 28.421 *et seq.*, governs the licensing of persons to carry concealed pistols. Section 5b(9) of the Act requires an applicant for a license to carry a concealed pistol to have his or her fingerprints taken by the county sheriff:

Before submitting an application under this section, the individual shall have 2 sets of classifiable fingerprints taken by the county sheriff. A sheriff *may charge* a fee for the actual and reasonable costs of taking the fingerprints, but not more than \$15.00. [Emphasis added.]

When interpreting statutory language, "[a]ll words and phrases shall be construed and understood according to the common and approved usage of the language . . . ." MCL 8.3a; *Massey v Mandell*, 462 Mich 375, 380; 614 NW2d 70 (2000). When considering a nonlegal word that is not defined by statute, "resort to a layman's dictionary such as *Webster's* is appropriate." (Footnote omitted.) *Horace v City of Pontiac*, 456 Mich 744, 756; 575 NW2d 762 (1998).

The definition of the word "charge" in *Webster's Third New International Dictionary, Unabridged Edition* (1964), p 377, includes "to fix or ask (a sum) as a fee or payment." (Emphasis added.) Thus, the word "charge," as used in section 5b(9) of the Concealed Pistol Licensing Act, includes the authority of the sheriff to fix or set the fee to be charged. This result is consistent with the discretionary language in section 5b(9) that gives the sheriff discretion whether to charge any fee at all. The use of the word "may" indicates a provision that grants discretion. *Law Department Employees Union v City of Flint*, 64 Mich App 359, 368; 235 NW2d 783 (1975).

The County Boards of Commissioners Act, 1851 PA 156, MCL 46.1 *et seq.*, defines the powers and duties of county boards of commissioners. Section 11(h) of that Act generally authorizes a county board of commissioners to:

Direct and provide for the raising of money necessary to defray the current expenses and charges of the county and the necessary charges incident to or arising from the execution of the board's lawful authority . . . .

The above general grant of authority to raise money for expenses does not, however, explicitly extend to setting the fingerprinting fee chargeable by a county sheriff under the Concealed Pistol Licensing Act. Section 5b(9) of the Concealed Pistol Licensing

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<sup>1</sup>The Act was significantly revised by amendatory 2000 PA 381.

Act, however, *specifically* authorizes a sheriff to "charge a fee" for the actual costs of taking fingerprints, up to \$15.00. Where two statutes cover the same subject matter, one generally applicable and the other specifically applicable, the specific statute prevails over the general statute. *Ex parte Landaal*, 273 Mich 248, 252-253; 262 NW 897 (1935). Applying this rule of statutory construction compels the conclusion that a sheriff, not the county board of commissioners, sets the fingerprinting fee.

It is my opinion, therefore, that a county sheriff has the authority to set the amount of the fingerprinting fee authorized by section 5b(9) of the Concealed Pistol Licensing Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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**COLLEGES AND UNIVERSITIES:** State university setting criteria for awarding academic credits

**CONSTITUTIONAL LAW:** State university control over academic matters under Const 1963, art 8, §§ 5 & 6

**SCHOOLS AND SCHOOL DISTRICTS:**

**A state university may establish criteria for determining when academic credits will be granted by that institution for postsecondary courses taken by high school students under the Postsecondary Enrollment Options Act.**

Opinion No. 7103

March 27, 2002

Honorable Doug Spade  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked if a state university may establish criteria for determining when academic credits will be granted by that institution for postsecondary courses taken by high school students under the Postsecondary Enrollment Options Act.

The Postsecondary Enrollment Options Act (Act), 1996 PA 160, MCL 388.511 *et seq.*, was enacted to provide a wider variety of options to high school pupils by encouraging and enabling qualified students to enroll in courses or programs in eligible postsecondary institutions. Section 2. "Eligible postsecondary institution" means a state university, community college, or independent nonprofit degree-granting college or university that is located in Michigan and that chooses to comply with this act. Section 3(e). A student may take courses at postsecondary institutions if the student is enrolled in at least one high school class in at least grade 11 and has successfully completed the requirements for a state endorsement in all subject areas of the Michigan Education Assessment Program (MEAP). Section 3(f). A student who has not successfully completed the requirements for a state endorsement in all subject areas in the MEAP is eligible to take postsecondary courses only in: (1) a subject area for which the student has completed the MEAP requirements; (2) computer science or foreign language courses not offered in the student's school district; or (3) fine arts courses as permitted by the school district. *Id.* Upon

enrollment in a postsecondary course, the student shall designate whether the course is being taken for high school or postsecondary credit, or both. Section 7(1). A student's local school district pays the tuition and certain other fees for the courses taken at the postsecondary institution. Section 4.

Information supplied with your request indicates that some state universities have adopted policies that restrict their award of academic credit for certain postsecondary courses taken by students under the Act. One state university reportedly declines to award credit unless the high school student has first taken a complete "academic core" at the student's high school. This required "academic core" includes a number of high school classes in English, mathematics, natural science, social science, and language. Another state university reportedly will grant credit only if the high school student elects to take the postsecondary course for college credit, the course is taught by a college instructor, and there are postsecondary students simultaneously enrolled in the course.

Const 1963, art 8, § 5, confers constitutional autonomy upon the governing boards of the University of Michigan, Michigan State University, and Wayne State University by providing that "[e]ach board shall have the general supervision of its institution and the control and direction of all expenditures from the institution's funds." Const 1963, art 8, § 6, confers constitutional autonomy upon the governing boards of other state institutions of higher education that have the authority to grant baccalaureate degrees by providing that "[t]he board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds." The quoted language confers the same constitutional autonomy on the boards of control of state institutions of higher education whether they fall under § 5 or § 6. *Eastern Michigan Univ Bd of Control v Labor Mediation Bd*, 384 Mich 561, 563; 184 NW2d 921 (1971).

Legislative attempts to restrict the constitutional autonomy of state universities have been the subject of extensive review by Michigan's appellate courts. Michigan's courts have consistently interpreted Michigan's Constitution as conferring upon the governing boards of state universities complete control over academic matters. As observed by the Michigan Supreme Court in *Regents of the Univ of Michigan v Michigan*, 395 Mich 52, 74; 235 NW2d 1 (1975), "Michigan is one of the few states to give independent constitutional status to its universities." Thus, "[o]ur Court will not, as it has not in the past, shirk its duty to protect the autonomy of the Regents in the educational sphere." *Regents of the Univ of Michigan v Employment Relations Comm*, 389 Mich 96, 109-110; 204 NW2d 218 (1972). Based on these controlling precedents, the Attorney General has concluded that "[t]he constitutional autonomy of these institutions is plenary as to its educational programs . . . ." OAG, 1979-1980, No 5637, p 578, 579 (January 31, 1980).

The determination of standards for admission to a state university, or to a course offered by a state university, is an academic matter that is within the discretion of the university. See OAG, 1975-1976, No 3662, p 708 (December 15, 1976); OAG, 1971-1972, No 4707, p 39 (May 5, 1971). It follows that establishing criteria for determining when and under what circumstances a state university will grant academic credit for courses, including postsecondary courses taken by high school students, is likewise an academic matter exclusively within the discretion of the university.

It is my opinion, therefore, that a state university may establish criteria for determining when academic credits will be granted by that institution for postsecondary courses taken by high school students under the Postsecondary Enrollment Options Act.

JENNIFER M. GRANHOLM  
Attorney General

**MOTOR VEHICLES: Motor vehicle equipped with rear-view camera and in-vehicle monitor**

**A motor vehicle equipped with a rear-view camera and an in-vehicle monitor that operates and whose picture can be seen by the driver only when the vehicle is motionless or in reverse gear does not violate section 708b of the Michigan Vehicle Code.**

Opinion No. 7104

April 12, 2002

Honorable Buzz Thomas  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked if a motor vehicle equipped with a rear-view camera and an in-vehicle monitor that operates and whose picture can be seen by the driver only when the vehicle is motionless or in reverse gear violates section 708b of the Michigan Vehicle Code.

The Michigan Vehicle Code, MCL 257.1 *et seq.*, regulates vehicles operated upon the public highways of the State of Michigan. Section 708b of the Code addresses equipping vehicles with the means of visually receiving data viewable by the driver. Subsection (1) prohibits a person from equipping a motor vehicle with any means of visually receiving a television or video broadcast viewable by or reflected to the driver or operating a vehicle so equipped. Specifically, subsection (1) states:

A person shall not equip or operate a motor vehicle that is to be used upon the highways of this state with a television viewer, screen, or other means of visually receiving a television or video broadcast which can be viewed by or reflected to the driver. [MCL 257.708b(1).]

Section 708b(2)(d) lists a number of exceptions to this prohibition. Among these exceptions is subsection (2)(d), which states that subsection (1) does not apply to “[a] motor vehicle equipped with a video display to monitor the rear view of the vehicle if the monitor is only activated when the vehicle is motionless or in reverse gear.”

The primary rule of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *Frankenmuth Mut Ins Co v Marlette Homes, Inc.*, 456 Mich 511, 515; 573 NW2d 611 (1998). The first criterion for determining legislative intent is the specific language of the statute. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). The Legislature is presumed to have intended the meaning it plainly expressed. *Nation v WDE Electric Co.*, 454 Mich 489, 494; 563 NW2d 233 (1997). Where the language of a statute is clear and unambiguous, judicial construction is generally neither necessary nor permitted. *Lorencz v Ford Motor Co.*, 439 Mich 370, 376; 483 NW2d 844 (1992).

The statutory language in section 708b(2)(d) is clear and unambiguous. Applying the unambiguous language of the Code to your question, it is clear that a motor vehicle equipped with a rear-view camera and in-vehicle monitor that operates and whose picture can be seen by the driver only when the vehicle is in reverse gear complies with section 708b of the Michigan Vehicle Code.

It is my opinion, therefore, that a motor vehicle equipped with a rear-view camera and an in-vehicle monitor that operates and whose picture can be seen by the driver only when the vehicle is motionless or in reverse gear does not violate section 708b of the Michigan Vehicle Code.

JENNIFER M. GRANHOLM  
*Attorney General*

**CITIES:** City councilperson serving as member on city historic district commission

**INCOMPATIBILITY:** Exemption allowing dual holding of public offices in municipalities with population under 25,000

**PUBLIC OFFICERS AND OFFICES:**

Under the Incompatible Public Offices Act, the office of Monroe city councilperson is incompatible with the office of historic district commissioner in that city.

Notwithstanding this incompatibility, the Incompatible Public Offices Act contains an exception that permits the governing body of a municipality having a population less than 25,000 to authorize a public officer or public employee to hold such dual public positions.

Opinion No. 7105

April 17, 2002

Honorable Randy Richardville  
State Representative  
The Capitol  
Lansing, MI

You have asked whether, under the Incompatible Public Offices Act, the office of Monroe city councilperson is incompatible with the office of historic district commissioner in that city.

The Incompatible Public Offices Act (Act), 1978 PA 566, MCL 15.181 *et seq*, prohibits the same person from simultaneously holding two or more incompatible public offices. Section 1(b) of the Act defines incompatible public offices as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

As a threshold issue, it must be determined if the Act applies to the two public offices identified in your question. Under the Act, the term "public officer" includes a person who is elected or appointed to a public office of a city (section 1(e)(ii)), as well as a commission or other public entity of a city. Section 1(e)(iii). Thus, the positions of city councilperson and historic district commission member are both subject to the Act. The determination whether the simultaneous holding of these two public offices results in the subordination of one public office to the other, or the supervision of one public officer by another, requires an examination of the nature and duties of each position.

A city council is the legislative body of a city. *People ex rel Attorney General v Common Council of Detroit*, 29 Mich 108, 112 (1874). Under the Monroe City Charter, the city council is the legislative body of the city.

The Local Historic Districts Act, 1970 PA 169, MCL 399.201 *et seq*, authorizes the creation of historic district commissions. Under this act, a local unit of government may establish historic districts, for historic preservation purposes, to be administered by a historic district commission. Section 3. The legislative body of a local unit of government may, by ordinance, establish an historic district commission and the method for appointing and terminating its members. Section 4. Under the Local Historic Districts Act, a city council may make the historic district commission

its agent to accept and administer grants, gifts, and program responsibilities. Section 6. A city council may acquire or sell historic resources based upon recommendations from the historic district commission. Section 7. A city council may prescribe additional powers and duties for the historic district commission beyond those prescribed in the statute. Section 13. The City of Monroe, Michigan, by ordinance, created an historic district commission and specified that its members be appointed by the mayor and city council. Section 1466.05(b). Under Monroe's ordinance, the city council may remove members of the historic district commission. Section 1466.05(i).

Based on these circumstances, a member of the historic district commission is subordinate to and supervised by Monroe city councilpersons. The Monroe City Council appoints and may remove members of the historic district commission, passes upon commission recommendations to acquire or sell historic resources, and is authorized to prescribe additional powers and duties for the commission. On these facts, the positions are incompatible under sections 1(b)(i) and (ii) of the Act. OAG, 1981-1982, No 6030, p 534 (January 21, 1982); OAG, 1995-1996, No 6854, p 56 (June 8, 1995).

The incompatibility cannot be resolved by a city councilperson abstaining from matters before the Monroe City Council involving the city's historic district commission. OAG, 1995-1996, No 6854, *supra*, at p 57, rejected abstention as a solution to holding two incompatible public positions:

Abstaining from any matters before the city council involving the Board of Public Works will not allow the person in question to hold both positions, since abstention is itself a breach of duty in this context, resulting in incompatibility under section 1(b)(iii) of 1978 PA 566. Only vacation of one of the two public positions will suffice. *Contesti v Attorney General*, 164 Mich App 271, 280-281; 416 NW2d 410 (1987), *lv den* 430 Mich 893 (1988); *Wayne County Prosecutor v Kinney*, 184 Mich App 681, 684-685; 458 NW2d 674, *lv den* 436 Mich 887 (1990).

The preceding determination does not, however, end this analysis. Section 3 of the Incompatible Public Offices Act, which creates an exception for municipalities having a population under 25,000, provides, in part, as follows:

(4) Section 2 does not do any of the following:

\* \* \*

(c) Limit the authority of the governing body of a city, village, township, or county having a population of less than 25,000 to authorize a public officer or public employee to perform, with or without compensation, other additional services for the unit of local government.

The population of Monroe is less than 25,000.<sup>1</sup> Section 3(4)(c) of the Act therefore allows a public officer to perform additional services for the city if authorized to do so by the governing body of the city. OAG, 1993-1994, No 6753, p 20 (March 24, 1993).

It is my opinion, therefore, that under the Incompatible Public Offices Act, the office of Monroe city councilperson is incompatible with the office of historic district commissioner in that city.

It is my further opinion that notwithstanding this incompatibility, the Incompatible Public Offices Act contains an exception that permits the governing body of a municipality having a population less than 25,000 to authorize a public officer or public employee to hold such dual public positions.

JENNIFER M. GRANHOLM  
*Attorney General*

<sup>1</sup>According to the 2000 census, the population of Monroe, Michigan, is 22,076.

**INCOMPATIBILITY: Township treasurer serving as board of education member****PUBLIC OFFICES AND OFFICERS:**

**The Incompatible Public Offices Act prohibits a person from simultaneously serving as township treasurer and board of education member where the township is located within the school district.**

Opinion No. 7106

May 2, 2002

Honorable Scott Shackleton  
State Representative  
The Capitol  
Lansing, MI

You have asked whether the Incompatible Public Offices Act prohibits a person from simultaneously serving as township treasurer and board of education member where the township is located within the school district.

In the Incompatible Public Offices Act (Act), 1978 PA 566, MCL 15.181 *et seq.*, the Legislature has addressed the simultaneous holding of multiple public offices. Section 2 prohibits public officers and employees from simultaneously holding two or more incompatible offices. Section 1(b) defines "incompatible offices" as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

A similar question was considered by the Attorney General in OAG, 1987-1988, No 6418, p 15 (January 13, 1987), where the compatibility of the offices of city treasurer and member of the county board of commissioners was reviewed under the Incompatible Public Offices Act. MCL 211.54 imposes a duty on a township treasurer to account for and pay over to the county treasurer county taxes collected by that treasurer. OAG, 1987-1988, No 6418, concluded that the city treasurer was the agent of the county in the performance of this duty and was therefore subject to *supervision* by the county board of commissioners in the collection and accounting of county taxes collected. Thus, the simultaneous holding of the two offices by the same person would be contrary to the Incompatible Public Offices Act.

OAG, 1989-1990, No 6611, p 295, 296-297 (February 23, 1990), concluded that the same person could not simultaneously occupy the offices of city treasurer and member of a board of education of a school district located in the same city. By collecting school taxes, the city treasurer was acting in a fiduciary capacity as the agent of the school district. *Grand Rapids Public Schools v City of Grand Rapids*, 146 Mich App 652; 381 NW2d 783 (1985). In performing such duties the treasurer is "subject to the *supervision* of the school board." (Emphasis added.) OAG, 1989-1990, No 6611, at 297. Thus, the offices were found to be incompatible under the Incompatible Public Offices Act.

Because the duties of a township treasurer and a city treasurer in the collection and accounting of school taxes are similar (MCL 211.43), the reasoning of OAG, 1987-1988, No 6418, *supra*, and OAG, 1989-1990, No 6611, *supra*, compels the conclusion that the same person may not simultaneously serve as township treasurer and school board member in the same school district.

It is my opinion, therefore, that the Incompatible Public Offices Act prohibits a person from simultaneously serving as township treasurer and board of education member where the township is located within the school district.

You have also asked whether the Incompatible Public Offices Act prohibits the same township treasurer and school board member from also serving as an employee of a county encompassing the township and school district. In light of my answer to your first question, it is not necessary to answer your second question.

JENNIFER M. GRANHOLM  
*Attorney General*

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**EDUCATION: Test sites for nonpublic school students seeking Michigan Merit Award**

**SCHOOLS AND SCHOOL DISTRICTS:**

**The Michigan Merit Award Scholarship Act requires the Michigan Merit Award Board to provide test sites for nonpublic school students wishing to take assessment tests.**

Opinion No. 7107

May 14, 2002

Honorable Bob Brown  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked if the Michigan Merit Award Scholarship Act requires the Michigan Merit Award Board to provide test sites for nonpublic school students wishing to take assessment tests.

The Michigan Merit Award Scholarship Act, 1999 PA 94, MCL 390.1451 *et seq.*, creates the Michigan merit award scholarship trust fund to provide merit awards to qualifying high school graduates. The goal of the program is to increase access to postsecondary education and training and to reward Michigan high school graduates who have demonstrated academic achievement. Section 4. The program is administered by the Michigan Merit Award Board, which is established in the Department of Treasury. Sections 4 and 7.

Under the Scholarship Act, awards are granted to Michigan students, including public and nonpublic school students, and home school students who receive qualifying results in the Michigan Education Assessment Program (MEAP) and who also meet certain other eligibility requirements set forth in the Act. Sections 2 and 7. Under the Revised School Code, 1976 PA 451, MCL 380.1 *et seq.*, Michigan public schools including public school academies must administer the MEAP tests to their high school students. Section 1279. Section 1279(14) of the Revised School Code, which also gives students in nonpublic or home schools the opportunity to take the MEAP assessment, provides that:

A child who is a student in a nonpublic school or home school may take an assessment under this section. To take an assessment, a child who is a student in a home school shall contact the school district in which the child resides, and that

school district shall administer the assessment, or the child may take the assessment at a nonpublic school if allowed by the nonpublic school. *Upon request from a nonpublic school, the department shall supply assessments and the nonpublic school may administer the assessment.* [Emphasis added.]

Under the Scholarship Act, the responsibility for administering MEAP tests to nonpublic school students and home school students rests with the Award Board.

A nonpublic school student or home school student may take, and *the board shall administer if requested, an assessment test at a site designated by the board.* [Section 7(11), MCL 390.1457(11). Emphasis added.]

The first step in ascertaining legislative intent is to look to the text of the statute. *Piper v Pettibone Corp*, 450 Mich 565, 571; 542 NW2d 269 (1995). Where the language of the statute is clear and unambiguous, the Legislature's intent must be carried out according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper, supra*, at 572.

Here, the Legislature's intent is clear from the statutory language. Michigan merit awards are to be available to all Michigan students, including those who attend nonpublic schools and those who are home schooled. To qualify for a merit award, a student must be able to take the MEAP test. Under the Revised School Code, nonpublic schools may administer the MEAP test but are not required to do so. Thus, a nonpublic school student may not necessarily be able to take the MEAP test at his or her nonpublic school. In any event, the Legislature has expressly required that, if there is a request, the Award Board must administer the MEAP test to nonpublic school students and to home schooled students at a site designated by the Award Board.

It is my opinion, therefore, that the Michigan Merit Award Scholarship Act requires the Michigan Merit Award Board to provide test sites for nonpublic school students wishing to take assessment tests.

JENNIFER M. GRANHOLM  
*Attorney General*

**MUNICIPAL CORPORATIONS: Township regulation of bicycle path****TOWNSHIPS:**

**A township bicycle path is not a recreational trailway that can only be regulated by an ordinance that is posted and maintained near each gate or principal entrance to the bicycle path.**

Opinion No. 7108

May 14, 2002

Honorable Barb Vander Veen  
State Representative  
The Capitol  
Lansing, MI

You have asked if a township bicycle path is a recreational trailway that can only be regulated by an ordinance that is posted and maintained near each gate or principal entrance to the bicycle path.

Section 21c of the Charter Township Act, 1947 PA 359, MCL 42.1 *et seq.*, requires posting of ordinances regulating recreational trailways as follows:

(1) An ordinance regulating a recreational trailway is not effective unless it is posted and maintained near each gate or principal entrance to the trailway.

(2) The operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance is a municipal civil infraction, whether or not so designated by the ordinance.

Section 21c, dealing with the regulation of recreational trailways, was added to the Charter Township Act by 1994 PA 82. Section 21c makes no reference to a bicycle path. But in 1994 charter townships already possessed express statutory authority to engage in "[t]he construction, maintenance, and improvement of bicycle paths." See section 2(1)(g) of 1954 PA 188, as then last amended by 1986 PA 180, MCL 41.722, and section 1(2) of the Charter Township Act.

In order to determine whether a bicycle path is a recreational trailway, it is necessary to determine legislative intent. That task begins with an examination of the statutory language. Words used by the Legislature must be given their common and ordinary meaning. *Nawrocki v Macomb County Rd Comm*, 463 Mich 143, 159; 615 NW2d 702 (2000). If a statute defines a term, then that definition is controlling. *Tryc v Michigan Veterans' Facility*, 451 Mich 129, 136; 545 NW2d 642 (1996). Also, in interpreting a statute, courts may look to definitions and terms used by the Legislature in other statutes. *Hatch v Grand Haven Charter Twp*, 461 Mich 457, 461-465; 606 NW2d 633 (2000).

Section 21c(2) of the Charter Township Act, which regulates the operation of a vehicle on a recreational trailway, contains no definition of the term "vehicle." However, in section 79 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 *et seq.*, the Legislature has excluded from the definition of vehicle "devices exclusively moved by human power." Thus historically, the Legislature has not included bicycles within the definition of vehicle.

Similarly, the Charter Township Act contains no definition of the term "recreational trailway." In the absence of a statutory definition, legislative history may be consulted. Michigan courts rely on legislative history, including House and Senate legislative analysis papers, in ascertaining legislative intent. *Luttrell v Dep't of Corrections*, 421 Mich 93, 103; 365 NW2d 74 (1984). The legislative analysis of HB 4350, as enrolled, which became 1994 PA 82, demonstrates that the Legislature was particularly concerned about enabling charter townships to regulate the operation of motor vehicles on trailways designated by the Natural Resources Commission as part of the Michigan trailways system.

In response to concerns about the proper development of recreational trailways, public support for new recreational opportunities, and growing local interest in urban "greenways", Public Acts 26, 27, and 28 of 1993 provide for the creation of a statewide trailways system. *These laws authorize the Natural Resources Commission to designate trailways throughout Michigan, and permit the Department of Transportation to transfer abandoned railroad rights-of-way to the Department of Natural Resources for use as trailways. . . .*

\* \* \*

As envisioned by the Department of Natural Resources, the Michigan trailways system will be an interconnected group of trails running through both remote countryside and the center of cities and villages, from Michigan's southern border up to the Mackinac Bridge and through the Upper Peninsula to the state's northernmost border. While this system is expected to create an array of new recreational opportunities for Michigan's citizens and tourists, it also undoubtedly will provide new opportunities for property damage and other criminal activity. *This is particularly the case if designated trails are to be used by motorized vehicles, such as cars, motorcycles, and off-road vehicles. Thus, it is necessary to give the local governmental units the means to discourage people from using vehicles on trails in a way that would violate a municipal ordinance.* [House Legislative Analysis, HB 4350, April 5, 1994; emphasis added.]

In the Michigan Trailways Act, 1993 PA 27, the Legislature first authorized the designation, use, and maintenance of a statewide system of trailways. In 1995 PA 58, the Legislature repealed the Michigan Trailways Act and reenacted it as Part 721 of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, MCL 324.72101 *et seq.* Section 72101, which defines terms used in Part 721, defines "Michigan trailway" and "trailway" as follows:

(e) "Michigan trailway" means a trailway designated by the commission pursuant to section 72103.

\* \* \*

(g) "Trailway" means a land corridor that features *a broad trail capable of accommodating a variety of public recreation uses.* [Emphasis added.]

Under section 72103 of the NREPA, the Natural Resources Commission may designate a trailway as a "Michigan trailway" if it meets certain enumerated requirements. To be considered a trailway under sections 72101 and 72103, the land corridor must be capable of handling varied public recreation uses. A trailway, however, is distinguishable from a bicycle path. The distinction between the two appears in section 72104(1) of Part 721 of the NREPA, where the Legislature separately uses the terms "trailway" and "bicycle path."

(1) Upon petition by any person or on its own motion, the commission may designate a *trailway, bicycle path, sidewalk, road, or other suitable route that does not meet the requirements of this part for a Michigan trailway as a "Michigan trailway connector"* if the connector meets all of the following: . . . [Emphasis added.]

Where the Legislature has distinguished between a trailway and a bicycle path, recognizing each as a separate and distinct category, the logical conclusion is that a bicycle path is not a trailway.<sup>1</sup>

The Legislature has distinguished trailways from bicycle paths in other respects. Under section 72103(2) and (3) of Part 721 of the NREPA, the Natural Resources

<sup>1</sup>See *Hatch v Grand Haven Charter Twp*, *supra*, 461 Mich at 464-466, where the legislative distinction between sidewalks and bicycle paths in several statutes compelled the conclusion that "a bicycle path is simply not a sidewalk."

Commission may permit motorized uses on a designated Michigan trailway. But, in section 419 of the Michigan Penal Code, 1931 PA 328, MCL 750.1 *et seq.*, the Legislature has generally prohibited the operation of motor vehicles upon a bicycle path.

A person who operates or rides a motorcycle, moped, or other motor vehicle, *excepting motorized wheelchairs upon a bicycle path* or a sidewalk regularly laid out and constructed for the use of pedestrians, not including a crosswalk or driveway, is guilty of a misdemeanor. [Emphasis added.]

Under this section, a person may not, for example, operate a snowmobile upon a bicycle path. See Letter Opinion of the Attorney General to Patrick Nowak, Director, Michigan Department of Transportation, dated February 4, 1992. It is, therefore, clear that while motorized uses may be authorized on a trailway, such uses on a bicycle path are generally prohibited.

While the Legislature has distinguished between trailways and bicycle paths, that distinction does not mean that townships lack authority to regulate bicycle paths. Section 21c of the Charter Township Act authorizes a charter township to regulate a bicycle path. Independent of the authority granted by section 21c, a township may enact ordinances regulating bicycle paths under its general authority to adopt ordinances "for the public peace and health and for safety of persons and property therein." See section 15 of the Charter Township Act and *Renne v Waterford Twp*, 73 Mich App 685, 690-691; 252 NW2d 842 (1977). A charter township that regulates a bicycle path by ordinance need not post its ordinance near the bicycle path.<sup>2</sup>

It is my opinion, therefore, that a township bicycle path is not a recreational trailway that can only be regulated by an ordinance that is posted and maintained near each gate or principal entrance to the bicycle path.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>2</sup>A township may, of course, choose to post bicycle path regulations at or near a bicycle path entrance, as a service to the public.

**ANIMALS: Person without veterinarian license vaccinating dogs owned by another****DOGS AND CATS:****LICENSES AND PERMITS:**

**A kennel owner who is not a licensed veterinarian may not administer routine vaccinations to a dog owned by another person, unless the kennel owner is acting under the supervision of a licensed veterinarian.**

Opinion No. 7109

June 7, 2002

Honorable Cameron S. Brown  
State Representative  
The Capitol  
Lansing, MI 48913

You have asked whether a kennel owner who is not a licensed veterinarian may administer routine vaccinations to a dog owned by another person.

Information supplied with your request indicates that a dog kennel owner proposes to administer vaccines (other than rabies vaccine) to a dog with the consent of the dog's owner. The vaccines, which are available over the counter and not prescribed by a veterinarian, are administered for the purpose of preventing disease in the dog receiving the vaccine as well as to protect other dogs boarded at the kennel facility.

The Animal Industry Act, 1988 PA 466, MCL 287.701 *et seq.*, was enacted, *inter alia*, to prevent, control, and eradicate infectious, contagious, or toxicological diseases of livestock or other animals. The Act defines the term "animal" to include "domestic animals." Section 3(2).

Section 43(4) of the Act, which regulates the administration of veterinary biologicals, provides that:

Veterinary biologicals shall be administered only by a licensed veterinarian or under the supervision of a licensed veterinarian unless used in compliance with section 18814 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18814 of the Michigan Compiled Laws.<sup>1</sup>

Section 6(31) defines "veterinary biologicals" to mean:

[A]ll viruses, serums, toxins and analogous products of natural or synthetic origin, or products prepared by any type of genetic engineering, such as diagnostics, antitoxins, *vaccines*, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals. [Emphasis added.]

The primary rule of statutory interpretation is to ascertain and give effect to the intent of the Legislature. *Frankenmuth Mut Ins Co v Marlette Homes, Inc.*, 456 Mich 511, 515; 573 NW2d 611 (1998). The first criterion for determining legislative intent is the specific language of the statute. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). Where the language of a statute is clear and unambiguous, judicial construction is neither necessary nor permitted. *Lorencz v Ford Motor Co.*, 439 Mich 370, 376; 483 NW2d 844 (1992). Sections 43(4) and 6(31) of the Animal Industry Act are clear and unambiguous. By definition, vaccines constitute veterinary biologicals. Veterinary biologicals may be administered only by a licensed veterinarian or under the supervision of a licensed veterinarian.

<sup>1</sup>Section 18814(a) of the Public Health Code enumerates several acts that do not constitute the practice of veterinary medicine.

This conclusion is consistent with the Public Health Code, 1978 PA 368, MCL 333.1101 *et seq*, which regulates certain health professionals. The Code prohibits persons from engaging in the practice of veterinary medicine unless they are licensed by the Board of Veterinary Medicine. Section 18811(1). Section 18805(2) of the Code defines the practice of veterinary medicine to include:

(a) Prescribing or *administering a drug, medicine, treatment*, or method of procedure; performing an operation or manipulation; applying an apparatus or appliance; or giving an instruction or demonstration designed to alter an animal from its normal condition. [Emphasis added.]

It is my opinion, therefore, that a kennel owner who is not a licensed veterinarian may not administer routine vaccinations to a dog owned by another person, unless the kennel owner is acting under the supervision of a licensed veterinarian.

JENNIFER M. GRANHOLM  
*Attorney General*

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## **ASSESSMENTS: Effect of tax foreclosure proceedings on liens for special assessments**

### **MUNICIPAL CORPORATIONS:**

### **TAX COLLECTION:**

### **TAX LIENS:**

**Liens for future installments of special assessments levied by townships are not extinguished by tax foreclosure proceedings under the General Property Tax Act.**

Opinion No. 7110

June 17, 2002

Honorable Philip Hoffman  
State Senator  
The Capitol  
Lansing, MI 48913

You have asked whether liens for future installments of special assessments levied by a township are extinguished by tax foreclosure proceedings under the General Property Tax Act.

The General Property Tax Act (GPTA), 1893 PA 206, MCL 211.1 *et seq*, was enacted, in part, to provide for the collection of taxes by making taxes a lien on property and to provide for the sale or forfeiture and conveyance of property that is delinquent for taxes.

Through 1999 PA 123, the Legislature added sections 78-78p to the GPTA. These amendments significantly changed the real property tax foreclosure process that had prevailed in this state for over a century, so as to facilitate the prompt return of tax delinquent lands to productive economic use. House Legislative Analysis, HB 4489, July 23, 1999. Before the 1999 amendments, delinquent tax liens were offered for

sale to private persons at public sales conducted pursuant to circuit court judgments obtained by the several counties in the name of the State Treasurer.<sup>1</sup> If no bids were received, the tax liens were "bid off" to the State of Michigan. If no person redeemed the lands, the tax lien purchaser was entitled to receive from the State Treasurer a deed conveying the lands. For lands bid off to the state and not redeemed, the state received a State Treasurer's deed memorializing its acquisition of title pursuant to the terms of the circuit court judgment. This process could take as long as six years to complete, thus delaying the return of lands to the tax rolls. *Id.*

The 1999 amendments to the GPTA now require that judicial proceedings to effectuate a tax foreclosure be brought by either the state or the county. Section 78(6) of the GPTA defines the term "foreclosing governmental unit" to mean (1) the "treasurer of a county," or (2) the "state" if a county has opted to have the state effectuate the foreclosure. The 1999 amendments also eliminated private persons from purchasing tax liens in the tax foreclosure process. Under the new process, there is no sale of delinquent tax liens. Rather, delinquent tax liens are forfeited to the county treasurer in March of the second year of the tax delinquency (section 78g), and the property is foreclosed at a circuit court hearing held at the end of the second year of delinquency, followed by a 21-day redemption period after the entry of judgment. Section 78k.

Section 78k(5)(c), which addresses the judgment to be entered by the circuit court, provides that:

The circuit court shall enter judgment on a petition for foreclosure filed under section 78h . . . . All redemption rights to the property expire 21 days after the circuit court enters a judgment foreclosing the property as requested in the petition for foreclosure. The circuit court's judgment shall specify all of the following:

\* \* \*

(c) *That all liens against the property. . . except future installments of special assessments and liens recorded by this state or the foreclosing governmental unit pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished, if all forfeited delinquent taxes, interest, penalties, and fees are not paid within 21 days after entry of the judgment.* [Emphasis added.]

In construing these subsections, a review of the history of the GPTA's provisions affecting treatment of delinquent tax liens, particularly those for special assessments under the previous tax foreclosure process, is instructive. In the midst of the Great Depression, the Legislature imposed a six-year moratorium on tax sales. In *Baker v State Land Office Bd*, 294 Mich 587, 592-594; 293 NW 763 (1940), the prevailing conditions that prompted the moratorium are described in detail. There, the Court sustained the cancellation of all existing liens and encumbrances against arguments that the statute destroyed vested rights of governmental units and of persons holding bonds issued to pay for governmental improvements. The Court observed "that such (bond) purchasers can be assumed to have purchased with knowledge that the lien upon the property securing such taxes and assessments might be displaced." *Baker*, 294 Mich at 599. Similar challenges by holders of bonds for which the proceeds of special assessments were pledged also failed for the same reasons. *Municipal Investors Ass'n v City of Birmingham*, 298 Mich 314, 323; 299 NW 90 (1941).

As part of a substantial revision of the tax foreclosure procedures, 1941 PA 234 amended section 67 of the GPTA to provide that title to lands bid in to the state shall become absolute, and all special assessment and liens were cancelled. However, through 1984 PA 103, which amended 67a, the Legislature extended protection for certain liens for past and future installments of special assessments. Amended section 67a provides, in part, that:

<sup>1</sup>For sales conducted before 1966, the judgments were obtained in the name of the Auditor General.

(3) Special assessments which are levied against property and which are pledged for the repayment of bonds or notes issued by a local unit to finance public improvements for which the special assessments are authorized shall be considered to be deferred at the time title becomes absolute in the state and until such time as the property is sold by the state. If the property is sold by the state, all unpaid special assessments or special assessment installments due and payable at the time title becomes absolute in the state which are pledged for the repayment of bonds or notes issued by a local unit to finance public improvements for which the special assessments were authorized, plus any interest or penalties on those unpaid special assessments or special assessment installments due and payable at the time title becomes absolute in the state, shall be due and payable as part of the purchase price of the property. . . .

Following enactment of 1984 PA 103, failure to redeem lands bid to the state resulted in the cancellation of *all* taxes and special assessments except those special assessments levied against property for the repayment of bonds and notes issued by local governmental units<sup>2</sup> to finance public improvements. Past installments were deferred and collected by the state upon the sale of the property. Future installments remained valid.

As part of the 1999 amendments to the GPTA, section 78k(5)(c) was added by 1999 PA 123. This section does not preserve liens for delinquent special assessment installments imposed on the property prior to the entry of a foreclosure judgment. Under these amendatory provisions, similar to those in effect at the time of the *Baker* decision, *supra*, liens for special assessments held by a township, as well as any other local governmental unit, are canceled. As described in *Baker*, tax foreclosed lands are made free of liens for delinquent special assessments. However, special assessment installments that become due and payable *after* acquisition of title by the state or county are not canceled. Foreclosure does not cancel "future installments of special assessments and liens recorded by this state or the foreclosing governmental unit pursuant to the natural resources and environmental protection act." Section 78k(5)(c). The language "recorded by this state or the foreclosing governmental unit" amends its last antecedent, *i.e.*, the word "liens" and not the words "special assessments." "Qualifying words and phrases in a statute refer solely to the last antecedent in which no contrary intention appears." *Weems v Chrysler Corp*, 448 Mich 679, 700; 533 NW2d 287 (1995). See, 2A Sutherland Statutory Construction (6th ed), § 47.33, pp 369-371.

"Liens" and notices of liens are recorded in the office of the register of deeds for the county in which the lands are located. "Special assessments" are not recorded. Liens may only be accepted for recording where there is a statute permitting such recordation. *Nelson v Scofield*, 219 Mich 595, 597; 189 NW 185 (1922). Research discloses no statute authorizing the recording of liens for special assessments levied by local governmental units. Therefore, the legislative intent evinced by the statutory language is that two categories of liens are not extinguished by foreclosure: 1) future installments of special assessments, and 2) liens recorded by the state or foreclosing governmental unit pursuant to the natural resources and environmental protection act.

Accordingly, special assessment installments coming due after acquisition of title by the state or county are not canceled by tax foreclosure proceedings. While either the state or the county in which the land is located may serve as the foreclosing governmental unit, there is no legislative intent to limit special assessments to those levied by a county or the state. Accordingly, there is no basis to conclude that the Legislature intended to protect only those "local" special assessments imposed by a county.

<sup>2</sup>"Local units," as the term was used in the former process, would include all cities, villages, townships, counties, or other public authorities authorized to undertake public improvements and levy special assessments pledged for the repayment of securities issued to defray the cost of such public improvements. See, *e.g.*, the Revenue Bond Act of 1933, 1933 PA 94, MCL 141.101 *et seq.*

Section 67a, as amended by 1984 PA 103, protected only special assessments that were levied against property and that were pledged for the repayment of bonds or notes issued by local governmental units to finance public improvements. Section 67a, however, is repealed by 1999 PA 123, effective December 31, 2003. No such limitation appears in new section 78k of the GPTA. Thus, special assessments protected under section 78k include unpaid future installments of special assessments levied by local governmental units.

It is my opinion, therefore, that liens for future installments of special assessments levied by townships are not extinguished by tax foreclosure proceedings under the General Property Tax Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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**LIBRARIES: Township donating money to school district/public library**

**PUBLIC MONEY:**

**TOWNSHIPS:**

**A township is not authorized to donate township funds to a combined school district/public library, but may enter into a contract to provide township funds to the library in return for library services to township residents.**

Opinion No. 7111

June 17, 2002

Honorable Don Koivisto  
State Senator  
The Capitol  
Lansing, MI 48913

You have asked whether a township is authorized to donate township funds to a combined school district/public library that provides library services to its residents.

Information supplied with your request indicates that a combined school district/public library provides library services to residents of a township. The township's legislative body, however, has not contracted for library services from the public library. In order to assist the public library in its delivery of services, the township board proposes to donate township funds to the public library. My staff is informed by the Library of Michigan that the library in question is a combined school/public library established by a school district under the authority of Part 20, section 1451 of the Revised School Code, 1976 PA 451, MCL 380.1 *et seq.* The township in question is within the legal service area of the combined school/public library. Three other townships, located outside the library's legal service area, receive library services for their residents pursuant to contracts with the combined school/public library.

Const 1963, art 7, § 17, provides that "[e]ach organized township shall be a body corporate with powers and immunities provided by law." As an instrumentality of the state for the purpose of providing local government services, a township has only the powers and authority "prescribed by law." *Hanslovsky v Leland Twp*, 281 Mich 652, 655; 275 NW 720 (1937). Local units of government "have no inherent powers

and possess only those limited powers which are expressly conferred upon them by the state constitution or state statutes." *Hanselman v Wayne County Concealed Weapon Licensing Bd*, 419 Mich 168, 187; 351 NW 2d 544 (1984).

The Attorney General has concluded that in the absence of statutory authority, a township may not make a gift of township funds to a county road commission to assist in creation of a county overnight camp, OAG, 1949-1950, No 871, p 89 (January 11, 1949), or to pay money to a county to discharge the private debts of township taxpayers, OAG, 1947-1948, No 622, p 495 (April 8, 1948), regardless of the desirability of such a gift and the availability of township funds to pay the gift, 2 OAG, 1956, No 2789, p 647 (November 7, 1956). On the other hand, OAG, 1977-1978, No 5250, p 297 (December 28, 1977), concluded that a *county* may expend a portion of its funds for township library services for county residents. That opinion specifically noted, however, that the County Libraries Act, 1917 PA 138, MCL 397.301 *et seq*, "authorizes counties to enter into contractual relationships with townships whereby such counties are permitted to give financial assistance to township libraries in return for library services to be furnished county residents." *Id.* at 298.

Research discloses no constitutional or statutory authority for a township to make donations of public funds to a school district/public library. Various state statutes do, however, authorize a township to provide financial support for a school district or public library pursuant to a contract or agreement with the library that provides or is willing to provide library services to township residents. For example, a township could contract with a school district or a public library for library services under the Urban Cooperation Act of 1967, MCL 124.501 *et seq*. In addition, under the District Library Establishment Act, MCL 397.171 *et seq*, a township could enter into an agreement with a city, village, school district, another township, or county to establish a district library or to join an established district library, and to appropriate township funds for such purposes. A township may also use statutes that authorize appropriations in support of services to senior citizens (MCL 400.571 *et seq*), and in support of activities to preserve township history (MCL 399.161 and MCL 399.171 *et seq*), as a basis for agreements with a public library. See, for example, OAG, 1999-2000, No 7016, p 24 (May 13, 1999); OAG, 1977-1978, No 5402, p 714 (December 13, 1978).

It is my opinion, therefore, that a township is not authorized to donate township funds to a combined school district/public library, but may enter into a contract to provide township funds to the library in return for library services to township residents.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CRIMINAL LAW: Delivery of fugitive who signed prior waiver of extradition**  
**LAW ENFORCEMENT:**

**A Michigan law enforcement agency having custody of a person who signed a prior waiver of extradition in another state may deliver the person to the other state without first taking the person before a judge, provided that all conditions set forth in section 25a of the Uniform Criminal Extradition Act are established.**

Opinion No. 7112

June 28, 2002

Mr. John G. McBain  
Jackson County Prosecutor  
312 South Jackson Street  
Jackson, MI 49201

You have asked whether a Michigan law enforcement agency having custody of a person who signed a waiver of extradition may deliver the person to another state without first taking the person before a judge.

The Uniform Criminal Extradition Act (UCEA), 1937 PA 144, MCL 780.1 *et seq.*, was enacted to make uniform the procedure governing interstate extradition. Through 1994 PA 380, the Legislature added new section 25a to provide a mechanism to bypass the lengthy formal extradition process in certain specified circumstances. Section 25a provides that:

Notwithstanding section 3,<sup>1</sup> a law enforcement agency in this state holding an individual who is alleged to have broken the terms of his or her probation, parole, bail, or other release in the demanding state shall immediately deliver the individual to the authorized agent of the demanding state without the requirement of a governor's warrant if all of the following have occurred:

- (a) The individual has signed a prior waiver of extradition as a term of his or her current probation, parole, bail, or other release in the demanding state.
- (b) The law enforcement agency holding the individual has received a copy of the prior waiver of extradition signed by the individual and confirmed by the demanding agency.
- (c) The law enforcement agency has received photographs, fingerprints, or other evidence that properly identify the individual who signed the waiver.

By its terms, the statute does not require a court hearing or judicial determination before the law enforcement agency may act. The omission in the statutory language of any judicial oversight role is the primary indicator of legislative intent. However, since the statute is silent on the issue of a judicial role, there is some ambiguity. In cases of ambiguity, it is appropriate to consult the legislative history as a tool of statutory interpretation. *Luttrell v Dep't of Corrections*, 421 Mich 93, 103; 365 NW2d 74 (1985).

A study of the legislative history of 1994 SB 1071, which became 1994 PA 380, confirms that the absence of language requiring judicial involvement was not an oversight but a deliberate judgment by the Legislature. On third reading in the Senate, SB 1071 amended section 25a to require as a condition of the waiver of extradition that:

"(1) . . . A JUDGE OF ANY COURT OF RECORD WITHIN THIS STATE FINDS THAT ALL OF THE FOLLOWING HAVE OCCURRED:

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<sup>1</sup>Section 3 of the UCEA specifies the form and content of the papers that must accompany a formal request to the Governor seeking an extradition.

(A) THE INDIVIDUAL HAS SIGNED A WRITTEN WAIVER OF EXTRADITION AS A TERM OR CONDITION OF HIS OR HER CURRENT PROBATION, PAROLE, BAIL, OR OTHER RELEASE IN THE DEMANDING STATE.

(B) THE PEACE OFFICER OR LAW ENFORCEMENT AGENCY HOLDING THE INDIVIDUAL HAS RECEIVED A COPY OF THE WRITTEN WAIVER OF EXTRADITION SIGNED BY THE INDIVIDUAL AND THE AUTHENTICITY OF THE COPY HAS BEEN CONFIRMED BY A COURT, AGENCY, OR AUTHORIZED AGENT OF THE DEMANDING STATE.

(C) THE PEACE OFFICER OR LAW ENFORCEMENT AGENCY HOLDING THE INDIVIDUAL HAS RECEIVED PHOTOGRAPHS, FINGERPRINTS, OR OTHER EVIDENCE THAT IDENTIFIES THE INDIVIDUAL BEING HELD AS THE INDIVIDUAL WHO SIGNED THE WRITTEN WAIVER OF EXTRADITION.

(2) IF THE COURT DETERMINES THAT THERE HAS BEEN A WAIVER OF EXTRADITION UNDER SUBSECTION (1), THE COURT SHALL ORDER THE PEACE OFFICER OR LAW ENFORCEMENT AGENCY HOLDING THE INDIVIDUAL TO DELIVER THE INDIVIDUAL INTO THE CUSTODY OF THE AUTHORIZED AGENT OF THE DEMANDING STATE." [Emphasis added.]

As thus amended, the Senate passed SB 1071 by vote of Yeas - 34, Nays - 0. 1994 Journal of Senate 1213-1214. The House, however, approved SB 1071 by enacting House Substitute (H-1) *without* the above-quoted provision for judicial oversight. 1994 Journal of the House 2578. The Senate concurred in the House Substitute (H-1) to SB 1071. 1994 Journal of Senate 2212. Thus, the legislative history of section 25a confirms the Legislature's intent that a fugitive from another state who is alleged to have broken the terms of probation, parole, bail, or other release and who has executed a prior waiver of extradition in that state may be delivered to a demanding state without first being taken before a judge.

The purpose of amendatory 1994 PA 380 is explained in Senate Legislative Analysis, SB 1071, December 20, 1994, which states that if the three requirements in the statute are satisfied then:

[A] law enforcement agency in this State holding an individual who was alleged to have broken the terms of his or her probation, parole, bail, or other release in the demanding state, immediately would have to deliver the individual to the authorized agent of the demanding state without the requirement of a governor's warrant . . . .

Had the Legislature intended to require judicial involvement in the section 25a procedure, it could have done so. For example, section 25 of the UCEA expressly provides for a waiver of extradition to be executed in this state by a fugitive in the presence of a judge of a court of record, and an explanation by the judge of the fugitive's right to issuance of a warrant of extradition and his or her right to obtain a writ of habeas corpus.

Michigan appellate courts have not addressed whether judicial review is necessary before a law enforcement agency may return a fugitive who has executed a prior waiver of extradition in another state as a condition of his or her release. The issue, however, has been addressed by appellate courts in other states. In *Ex Parte Johnson*, 610 SW2d 757, 759 (Tex Crim App, 1981), the court held that formal extradition proceedings were unnecessary where the absconding probationer or parolee signed a prior waiver of extradition in another state as a condition of release in that state under the UCEA. In *Commonwealth v Green*, 581 A2d 544, 556 (Penn, 1990), the Pennsylvania Supreme Court followed the rule in *Ex Parte Johnson*, and stated:

The vast majority of the decisions we have found reject the view that a waiver before a judge or magistrate is the exclusive and only way in which extradition can be waived.

The court concluded that there was nothing illegal or unconstitutional about this extradition waiver procedure. *Green*, 581 A2d at 557; See also *New Jersey v Maglio*, 459 A2d 1209, 1212 (NJ Super, 1983). But see *In re Klock*, 133 Cal App 3d 726; 184 Cal Rptr 234, 237 (1982), where a divided California Court of Appeals was constrained to follow the earlier California Supreme Court decision in *In re Patterson*, 64 Cal 2d 357; 411 P2d 897 (1966), holding that the extradition waiver must be signed before a magistrate in the asylum state.

It is my opinion, therefore, that a Michigan law enforcement agency having custody of a person who signed a prior waiver of extradition in another state may deliver the person to the other state without first taking the person before a judge, provided that all conditions set forth in section 25a of the Uniform Criminal Extradition Act are established.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CONCEALED WEAPONS: Reserve police officer carrying exposed pistol in gun-free zones established by Concealed Pistol Licensing Act**

**FIREARMS: Reserve police officer carrying exposed pistol in gun-free zones established by Michigan Penal Code.**

**LAW ENFORCEMENT:**

**PEACE OFFICERS:**

A uniformed reserve police officer acting as an unpaid volunteer for a local police agency may carry an exposed, holstered pistol within the gun-free zones established by the Concealed Pistol Licensing Act; and if the officer is either a fully authorized "peace officer" or, alternatively, possesses a valid concealed pistol license issued under the Concealed Pistol Licensing Act, he or she may also carry an exposed, holstered pistol within the gun-free zones established by the Michigan Penal Code.

Opinion No. 7113

June 28, 2002

Honorable Gary C. Peters  
State Senator  
The Capitol  
Lansing, MI

Honorable Mary Ann Middaugh  
State Representative  
The Capitol  
Lansing, MI

Honorable Larry Julian  
State Representative  
The Capitol  
Lansing, MI

You have asked whether a uniformed reserve police officer acting as an unpaid volunteer for a local police agency may carry an exposed, holstered pistol within a "gun-free zone" established by the Concealed Pistol Licensing Act.

Your inquiry is governed by the interplay between two separate but related statutes, both of which regulate the possession of firearms.

The Concealed Pistol Licensing Act, 1927 PA 372, MCL 28.421 *et seq*, regulates the possession and carrying of *concealed* pistols. The Act prohibits persons from carrying a concealed pistol unless they have been licensed in accordance with the provisions of that Act. Amendatory 2000 PA 381 made significant changes to the Act. Section 5b(7) sets forth specific qualifications a person must possess in order to receive a license to carry a concealed pistol and further provides that a county concealed weapon licensing board "shall issue a license" to an applicant who meets those requirements. The Act also provides that a person who is issued a license under the Act may carry a concealed pistol "anywhere in this state" except in certain designated classes of locations listed in section 5o of the Act. Those exceptions, commonly referred to as "gun free zones," include the following:

- a) A school or school property . . . .
- b) A public or private day care center, public or private child caring agency, or public or private child placing agency.
- c) A sports arena or stadium.
- d) A dining room, lounge, or bar area of a premises licensed under the Michigan liquor control code of 1998 . . . . This subdivision shall not apply to an owner or employee of the premises.
- e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the

church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

- f) An entertainment facility [that has a seating capacity of 2,500 or more] . . . .
- g) A hospital.
- h) A dormitory or classroom of a community college, college, or university. [Section 5o(1).]

Section 12a of the Act expressly exempts certain persons from the requirements of the Act, including:

- (a) A *peace officer* of a duly authorized police agency of the United States or of this state or a political subdivision of this state, *who is regularly employed* and paid by the United States or this state or a subdivision of this state, except a township constable. [Emphasis added.]

Under the express terms of this section, a police officer or reserve police officer is exempt from the requirements of the Concealed Pistol Licensing Act, including the prohibition against carrying a concealed weapon in a “gun free zone,” but only if the officer (1) possesses the full authority of a peace officer, and not merely special or limited law enforcement authority; and (2) is regularly employed and paid for those services. See OAG, 2001-2002, No 7098, p 74 (January 11, 2002). Your inquiry does not specify whether the uniformed reserve officer in question possesses the full authority of a peace officer. You do, however, specify that the officer in question serves as an unpaid volunteer. Because the exemption contained in section 12a(a) is limited to officers who are “regularly employed,” an unpaid volunteer officer is not exempt from the provisions of the Concealed Pistol Licensing Act and is, therefore, prohibited from carrying a *concealed* pistol in a designated “gun free zone.” OAG No 7098, *supra*.

A plain reading of section 5o(1) of the Concealed Pistol Licensing Act discloses, however, that its prohibition applies only to the carrying of pistols that are “concealed.” A holstered pistol carried openly and in plain view is not “concealed” and therefore does not violate the prohibition contained in that section. See, e.g., OAG, 1951-1952, No 1388, p 228 (April 18, 1951) (“Should they be so directed by their superior officers, auxiliary police while on duty may carry weapons openly, the prohibition in the Penal Code applying only to ‘concealed’ weapons.”). *Cf.*, *People v Johnnie W. Jones*, 12 Mich App 293, 296; 162 NW2d 847 (1968); and *People v Kincade*, 61 Mich App 498, 502; 233 NW2d 54 (1975).

This, however, does not end the analysis of your question. The carrying of firearms in public is also restricted by the Michigan Penal Code, 1931 PA 328, MCL 750.1 *et seq.* Section 234d of the Penal Code identifies certain “gun free zones” similar to those enumerated in section 5o of the Concealed Pistol Licensing Act; within those specified zones, the possession of firearms is strictly prohibited, subject to limited exceptions. Specifically, section 234d(1) of the Penal Code provides that:

- (1) Except as provided in subsection (2), a person shall not possess a firearm on the premises of any of the following:

- (a) A depository financial institution or a subsidiary or affiliate of a depository financial institution.
- (b) A church or other house of religious worship.
- (c) A court.
- (d) A theatre.
- (e) A sports arena.
- (f) A day care center.
- (g) A hospital.
- (h) An establishment licensed under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to

436.58 of the Michigan Compiled Laws.

This language is significantly broader than that employed by section 50 of the Concealed Pistol Licensing Act. By its express terms, section 234d(1) of the Penal Code applies to firearms generally, not merely to pistols, and applies to firearms whether concealed or not. Subsection (2) of this provision creates several specific exceptions to this prohibition, two of which are germane to your inquiry. It provides, in pertinent part that:

(2) This section does not apply to any of the following:

\* \* \*

(b) A peace officer.

(c) A person licensed by this state or another state to carry a concealed weapon.

Similarly, section 237a(4) of the Penal Code prohibits possession of a firearm in a weapon free school zone, a term defined in section 237a(6)(d) as "school property and a vehicle used by a school to transport students to or from school property." Like section 234d(2), the prohibition against possessing firearms in a school zone does not apply to a peace officer or to a person licensed to carry a concealed weapon. Section 237a(5).

If a reserve officer qualifies as a peace officer, then the officer is exempt from the prohibition contained in sections 234d(1) and 237a(4) of the Penal Code concerning the possession of firearms on specified premises. If not, sections 234d(2)(c) and 237a(5)(c) of the Penal Code also exempt "[a] person licensed by this state or another state to carry a concealed weapon." A license issued by a county concealed weapon licensing board under section 5b(7) of the Concealed Pistol Licensing Act clearly satisfies the latter exemption. Thus, possession of such a license would enable a reserve police officer to carry an exposed, holstered pistol in the "gun free zones" described in sections 234d and 237a of the Penal Code.

It is my opinion, therefore, that a uniformed reserve police officer acting as an unpaid volunteer for a local police agency may carry an exposed, holstered pistol within the gun-free zones established by the Concealed Pistol Licensing Act; and if the officer is either a fully authorized "peace officer" or, alternatively, possesses a valid concealed pistol license issued under the Concealed Pistol Licensing Act, he or she may also carry an exposed, holstered pistol within the gun-free zones established by the Michigan Penal Code.

JENNIFER M. GRANHOLM  
*Attorney General*

**DOMESTIC VIOLENCE: Words alone may constitute domestic violence****FAMILY INDEPENDENCE AGENCY:****Words alone, whether or not accompanied by physical conduct, may constitute "domestic violence" as that term is defined in the Domestic Violence Prevention and Treatment Act.**

Opinion No. 7114

July 26, 2002

Honorable Doug Bovin  
State Representative  
The Capitol  
Lansing, MI

You have asked whether words alone, unaccompanied by physical conduct, may constitute "domestic violence" as that term is defined in the Domestic Violence Prevention and Treatment Act.

The Domestic Violence Prevention and Treatment Act (Act), 1978 PA 389, MCL 400.1501 *et seq.*, is "An Act to provide for the prevention and treatment of domestic violence . . . ." The Act creates a Domestic Violence Prevention and Treatment Board within the Michigan Family Independence Agency that awards grants and contracts to prevent and treat domestic violence. The Board has the power to develop standards for the implementation and administration of services and procedures to prevent domestic violence and to provide services and programs for victims of domestic violence. Section 4(b). The Act is civil in nature and does not impose criminal penalties or provide for protective orders.

The Act's original definition of "domestic violence," as found in section 1(c), read as follows:

(c) "Domestic violence" means a violent physical attack or *fear of violent physical attack* perpetrated by an assailant against a victim;. . . [Emphasis added.]

This definition was broadened by 2000 PA 84, which amended section 1 and added specific language in subsection (d) that now defines "domestic violence" as follows:

(d) "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

(i) Causing or attempting to cause physical or *mental harm* to a family or household member.

(ii) Placing a family or household member in *fear of physical or mental harm*.

(iii) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, *threat of force, or duress*.

(iv) Engaging in activity toward a family or household member that would cause a reasonable person to *feel terrorized, frightened, intimidated, threatened, harassed, or molested*. [Emphasis added.]

The primary rule of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *Frankenmuth Mut Ins Co v Marlette Homes, Inc*, 456 Mich 511, 515; 573 NW2d 611 (1998). The first criterion for determining legislative intent is the specific language of the statute. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). Where the language of a statute is clear and unambiguous, judicial construction is neither necessary nor permitted. *Lorenz v Ford Motor Co*, 439 Mich 370, 376; 483 NW2d 844 (1992).

Here the Act's definition of "domestic violence" is clear and unambiguous. The Legislature has clearly defined "domestic violence" to include several enumerated

acts that can be readily accomplished by words alone. These acts include causing or attempting to cause "mental harm" to a family or household member, placing such person in "fear of mental harm," or engaging in any act toward such person that would cause a reasonable person to feel frightened, intimidated, or threatened. Causing a family or household member to fear harm or to feel frightened, intimidated, or threatened may be accomplished by words alone. Based on the Act's express language, it must be concluded that domestic violence, as that term is defined in the Act, may include words alone, whether or not accompanied by physical conduct.

It is my opinion, therefore, that words alone, whether or not accompanied by physical conduct, may constitute "domestic violence" as that term is defined in the Domestic Violence Prevention and Treatment Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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**BLUE CROSS & BLUE SHIELD: Authority of Blue Cross & Blue Shield of Michigan to convert or sell itself to a for-profit entity**

**CORPORATIONS:**

**INSURANCE:**

**NONPROFIT HEALTH CARE CORPORATION ACT:**

**The Nonprofit Health Care Corporation Reform Act does not authorize Blue Cross & Blue Shield of Michigan to convert itself from its special status as a nonprofit, tax-exempt, charitable and benevolent institution to a for-profit entity or to sell itself to a for-profit entity.**

Opinion No. 7115

July 30, 2002

Honorable Paul Wojno  
State Representative  
The Capitol  
Lansing, Michigan

You have asked whether the Nonprofit Health Care Corporation Reform Act authorizes Blue Cross & Blue Shield of Michigan to convert itself from its special status as a nonprofit, tax-exempt, charitable and benevolent institution to a for-profit entity or to sell itself to a for-profit entity.

In particular, you express concern about whether Blue Cross & Blue Shield of Michigan (BCBSM) can convert or sell itself to a mutual or stock insurance company which, for purposes of this opinion, are assumed to be other than nonprofit entities.

The People of this state have declared that the health of Michigan's citizens is a matter of primary public concern. Const 1963, art 4, § 51, provides that:

The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Under this authority, the Legislature enacted the Nonprofit Health Care Corporation Reform Act (Act), 1980 PA 350, MCL 550.1101 *et seq.*<sup>1</sup> BCBSM is the only health care corporation governed by the Act, which provides that "[a] health care corporation shall not be incorporated in this state except under this act." Section 201(1). The Act defines "health care corporation" to mean a nonprofit hospital service corporation, medical care corporation, or a consolidated hospital service and medical care corporation incorporated or reincorporated under this act, or incorporated or consolidated under former Act 108 or Act 109 of the Public Acts of 1939. Section 105(2).

Section 102, which declares the Legislature's intent and policy, provides in part that:

(1) It is the purpose of and intent of this act, and the policy of the legislature, to promote an appropriate distribution of health care services for all residents of this state, to promote the progress of the science and art of health care in this state, and to assure for nongroup and group subscribers, reasonable access to, and reasonable cost and quality of, health care services, in recognition that the health care financing system is an essential part of the general health, safety, and welfare of the people of this state. *Each corporation subject to this act is declared to be a charitable and benevolent institution and its funds and property shall be exempt from taxation by this state or any political subdivision of this state.*

(2) It is the intention of the legislature that this act shall be construed to provide for the regulation and supervision of *nonprofit* health care corporations by the commissioner of insurance so as to secure for all of the people of this state who apply for a certificate, the opportunity for access to health care services at a fair and reasonable price. [Emphasis added.]

As a nonprofit health care corporation subject to the Act, BCBSM's special status is reinforced in section 201(5) where the Legislature again declared that:

A health care corporation subject to this act is declared to be a charitable and benevolent institution, and its funds and property shall be exempt from taxation by this state or any political subdivision of this state.

Thus, the Legislature has expressly declared BCBSM to be a nonprofit, tax-exempt, charitable and benevolent institution. By doing so, the Michigan Legislature created a charitable trust for the benefit of Michigan's citizens. This trust may not be compromised by the diversion of BCBSM's charitable assets that are intended to benefit Michigan's citizens.<sup>2</sup> BCBSM's statutory duty is to provide access to health care at a fair and reasonable price to *all* Michigan citizens who apply for coverage. Its special legal status makes BCBSM Michigan's health insurer of last resort.

BCBSM's special status is recognized by its express exclusion from the laws regarding insurance companies and corporations generally. Section 201(4). Indeed,

<sup>1</sup>The two predecessor corporations of BCBSM were incorporated pursuant to original enabling legislation, 1939 PA 108 and 109, MCL 550.301 *et seq.*, and MCL 550.501 *et seq.*, respectively. Two 1974 amendments to the enabling legislation allowed for the consolidation of these two corporations. See MCL 550.309a, as added by 1974 PA 331, and MCL 550.503b, as added by 1974 PA 332. The consolidation occurred in 1975, resulting in the formation of BCBSM. 1980 PA 350 repealed 1939 PA 108 and 109. See the excellent "Historical Background" in *Blue Cross and Blue Shield of Michigan v Governor*, 422 Mich 1, 13-18; 367 NW2d 1 (1985). See also David L. Hollister and Patience A. Drake, *The Nonprofit Health Care Corporation Reform Act of 1980*, 14 U Mich JLR 433 (1981).

<sup>2</sup>The Supervision of Trustees for Charitable Purposes Act, 1961 PA 101, MCL 14.251 *et seq.*, confers on the Attorney General both the authority and the duty of overseeing Michigan charitable trusts for the purposes of representing the citizens of Michigan, protecting the trust corpus, and ensuring that the beneficiaries of the trust are the people of the State of Michigan.

the Act places limitations on the name by which a nonprofit health care corporation may be known: "[T]he words insurance, casualty, surety, health and accident, mutual, or other words descriptive of the insurance or surety business" may not be included in its corporate name. Section 202(1)(c). The Act's provisions clearly demonstrate the Legislature's intent to distinguish BCBSM from an insurance business and to eliminate any confusion in identity with that of an insurance company. Thus, the Legislature did not intend BCBSM to become, to operate as, or to convert to a for-profit insurance company.

In *Blue Cross & Blue Shield of Michigan v Governor*, 422 Mich 1,14-15; 367 NW2d 1 (1985), the Michigan Supreme Court recognized BCBSM's special status and unique mission by stating that:

*BCBSM is a unique statutory creation, distinct from a private insurance company in that "it is not carried on as an insurance business for profit . . . , but rather it provides a method for promoting the public health and welfare in assisting . . . persons to budget' health care costs." Under its enabling legislation, BCBSM is not "subject to the laws of this state with respect to insurance corporations, except as provided in [the] act . . . . [nor] with respect to corporations generally." Rather, BCBSM is, by legislative declaration, a non-profit "charitable and benevolent institution, and its funds and property shall be exempt from taxation by this state or any political subdivision of this state."* [Emphasis added; citations omitted.]

The Michigan Supreme Court has characterized BCBSM as a *quasi-public*, tax-exempt institution. *Westland Convalescent Center v BCBSM*, 414 Mich 247, 264; 324 NW2d 851 (1982). A quasi-public corporation may not sell and transfer all of its property without legislative authorization. *Cumberland Tel & Tel Co v City of Evansville*, 127 F 187, 193 (D Ind, 1903) *aff'd* 143 F 238 (CA 7, 1906).

The general powers and duties of BCBSM's board of directors are set forth in section 301(1), which provides that:

The property and lawful business of a health care corporation existing and authorized to do business under this act shall be held and managed by a board of directors to consist of not more than 35 members. *The board shall exercise the powers and authority necessary to carry out the lawful purposes of the corporation, as limited by this act and the articles of incorporation and the bylaws of the corporation.* [Emphasis added.]

Thus, the Act limits the powers and authority of the BCBSM board of directors to those necessary to effectuate the corporation's purposes, "as limited by this act" and the corporation's articles of incorporation and bylaws.

Section 206(1) likewise imposes restrictions on BCBSM's acquisition and disposition of funds and property, as well as the transaction of corporation business, by providing that:

The funds and property of a health care corporation shall be acquired, held, and disposed of only for the *lawful purposes* of the corporation and *for the benefit of the subscribers of the corporation as a whole*. A health care corporation shall only transact such business, receive, collect, and disburse such money, and acquire, hold, protect, and convey such property, as are properly within the *scope of the purposes of the corporation as specifically set forth in section 202(1)(d), for the benefit of the subscribers of the corporation as a whole, and consistent with this act.* [Emphasis added.]

Thus, BCBSM may acquire, hold, and dispose of its funds and property only within the scope of its lawful purposes, consistent with the Act, and for the benefit of the subscribers as a whole.

The lawful purposes of a health care corporation are delineated in section 202(1)(d) of the Act, which provides that:

Persons associating to form a health care corporation under this act shall subscribe to articles of incorporation<sup>3</sup> that shall contain all of the following:

\* \* \*

(d) *The purposes of the corporation, which shall be:*

(i) To provide health care benefits.

(ii) To secure for *all* of the people of this state who apply for a certificate the opportunity for access to coverage for health care services at a fair and reasonable price.

(iii) To assure for nongroup and group subscribers reasonable access to, and reasonable cost and quality of, health care services.

(iv) To achieve the goals of the corporation relative to access, quality, and cost of health care services, as prescribed in section 504.

(v) To offer supplemental coverage to *all* medicare enrollees as provided in part 4A.

(vi) If under contract to serve as fiscal intermediary for the federal medicare program, to do all of the following:

(A) Carry out its contractual responsibilities efficiently, including the timely processing and payment of claims.

(B) Actively represent, in negotiations with the federal government and with providers of medical, hospital, and other health services for which benefits are provided under the federal medicare program, the interests of senior citizens as they relate to cost and quality of, and access to, health care services and administration of the program.<sup>4</sup>

(vii) To engage in activity otherwise *authorized by this act, within the purposes for which corporations may be organized under this act.*

\* \* \*

(g) Other terms and conditions *not inconsistent with this act*, necessary for the conduct of the affairs of the corporation. [Emphasis added; footnotes added.]

The powers of a health care corporation are set forth in section 207 and are made expressly “subject to any limitation provided in this act,” in any other statute of this state, or in the health care corporation's articles of incorporation. Section 207, subsection (h) authorizes a health care corporation to establish or own a health maintenance organization subject to the requirements of the Public Health Code; subsection (o) empowers it to invest its funds, *inter alia*, in shares of an insurer, provided that the investment be limited to not more than 10% of the voting securities of the insurer, be approved by the Commissioner of Insurance and be determined by the Attorney General to be lawful under section 202; subsection (u) authorizes it to cease its activities and dissolve, subject to the Commissioner's authority under section 606(2); and subsection (x) authorizes it to establish, own, and operate a domestic stock insurance company but *only* for the purpose of acquiring, owning, and operating the State Accident Fund pursuant to chapter 51 of the Insurance Code, under very specific limitations. Section 207(1) also restricts the actions of a health care corporation as follows:

<sup>3</sup>The articles of incorporation and amendments to the articles must be examined and certified by the Attorney General. Section 202(3) of the Act.

<sup>4</sup>BCBSM must consult with the Office of Services to the Aging and with senior citizens' organizations in regard to Medicare supplemental coverage. Section 207(2) of the Act.

A health care corporation, *subject to any limitation provided in this act*, in any other statute of this state, or in its articles of incorporation, may do any or all of the following:

\* \* \*

(q) Sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage or pledge, or create a security interest in, any of its property, or an interest therein, wherever situated.

\* \* \*

(t) Participate with others in any joint venture with respect to any transaction that the health care corporation *would have the power to conduct by itself*.

\* \* \*

(v) Make contracts, transact business, carry on its operations, have offices, and exercise the powers granted by this act in any jurisdiction, *to the extent necessary to carry out its purposes under this act*.

(w) Have and exercise all powers *necessary or convenient to effect any purpose for which the corporation was formed*. [Emphasis added.]

None of these sections nor any other sections in the Act authorize BCBSM to sell itself or convert itself to a for-profit entity or to sell itself to a for-profit entity.

Section 216(1) permits a health care corporation to merge or consolidate only with (1) a corporation existing and authorized to do business under the Act, (2) a nonprofit dental care corporation under 1963 PA 125, MCL 550.351 *et seq*, or (3) a health maintenance organization pursuant to Part 210 of the Public Health Code, 1978 PA 368, as amended, MCL 333.21001 *et seq*.<sup>5</sup> Section 216(3), however, restricts the purpose of the surviving or consolidated corporation as follows:

The purpose of the surviving or consolidated corporation *shall incorporate the purposes* of each of the constituent corporations as set forth in their respective articles of incorporation in effect at the time of their respective adoptions of the plan of merger or consolidation. [Emphasis added.]

Thus, the purposes of each constituent corporation must be expressly incorporated and continued in any surviving or consolidated corporation. As a result, this section provides BCBSM no authority to abandon its legislatively mandated purpose and mission.

In *Sebewaing Industries, Inc v Village of Sebewaing*, 337 Mich 530, 545-547; 60 NW2d 444 (1953), the Michigan Supreme Court addressed whether powers not having been expressly granted nor prohibited were nevertheless to be implied from others that were conferred by statute. There the Court ruled that:

When a statute creates an entity, grants it powers and prescribes the mode of their exercise, *that mode must be followed and none other*. *Taylor v. Public Utilities Commission*, *supra* (4 Justices); (2 Lewis' Sutherland Statutory Construction [2d ed], §§ 491-493). When powers are granted by statute to its creature the enumeration thereof in a particular field must be deemed to exclude all others of a similar nature in that same field. So held in *Bank of Michigan v. Niles*, 1 Doug (Mich) 401 (41 Am Dec 575), in which this Court, in considering powers conferred upon a bank by its charter, said:

"The very grant of specified powers under restrictions, is an exclusion of other powers in reference to the same subject matter, not granted by the charter."

<sup>5</sup>Part 210 of the Public Health Code governing health maintenance organizations was repealed by 2000 PA 252, MCL 500.3501 *et seq*.

Similarly, as related to the powers of a corporation created under a general statute, 4 members of this Court, speaking in *People v. Gansley*, 191 Mich 357 (Ann Cas 1918E, 165), said:

"It has been held that the powers are simply such as the statute confers, and that the enumeration of them implies exclusion of all others. *Thomas v. Railroad Co.*, 101 US 71 (25 L ed 950); *Pennsylvania R. Co. v. Railroad Co.*, 118 US 290, 309 (6 Sup Ct 1094, 30 L ed 83)." [Emphasis added.]

The Court held that no express power existed and none could be implied for the Village of Sebawaing to borrow money and to assume an obligation for the purpose of acquiring a city hall. Similarly, BCBSM cannot take actions that are not specifically permitted in the Act. As a creation of the Legislature, BCBSM possesses only that authority specifically granted by statute. See *Booth v Consumers Power Co.*, 226 Mich App 368, 373; 573 NW2d 333 (1997).

A fair reading of the Act discloses no grant of authority for a health care corporation to convert its status to a for-profit status or to sell the corporation to a for-profit entity. Such action would contradict the manifest intention of the Legislature and the sound public policy underlying the Act, and would be inconsistent with the purposes for which a health care corporation may be organized under the Act. Nowhere has the Legislature granted to BCBSM or to its board of directors the authority to thwart the legislative intent and express policy stated in the Act, or to undermine BCBSM's unique status as a nonprofit, tax-exempt, charitable, and benevolent institution.

It is my opinion, therefore, that the Nonprofit Health Care Corporation Reform Act does not authorize Blue Cross & Blue Shield of Michigan to convert itself from its special status as a nonprofit, tax-exempt, charitable and benevolent institution to a for-profit entity or to sell itself to a for-profit entity.

JENNIFER M. GRANHOLM  
*Attorney General*

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**DEEDS AND CONVEYANCES: Register of deeds duty to record and index mortgage document where mortgagee is listed as nominee****MORTGAGES:****REAL ESTATE:****REGISTER OF DEEDS:**

**A county register of deeds may not decline to accept for recording a mortgage, assignment of mortgage, or discharge of mortgage on the ground that the mortgagee is identified as a nominee of a disclosed or undisclosed mortgagee.**

**When recording and indexing a mortgage document in which the mortgagee is identified as a nominee of a disclosed or undisclosed mortgagee, the county register of deeds may list the mortgagee as "nominee" or, when appropriate, nominee for identified principal.**

Opinion No. 7116

August 28, 2002

Honorable A. T. Frank  
State Representative  
The Capitol  
Lansing, MI

You have asked two questions concerning the duties of a county register of deeds in processing a mortgage, assignment of a mortgage, and discharge of mortgage where the document's mortgagee is identified as a nominee.

Your first question asks whether a county register of deeds may decline to accept for recording a mortgage, assignment of mortgage, or discharge of mortgage on the ground that the mortgagee is identified as a nominee of a disclosed or undisclosed mortgagee.

Information supplied with your request indicates that several county registers of deeds have received for recording documents in which a mortgage, assignment of mortgage, or a discharge of mortgage is given by the Mortgage Electronic Registration System Inc. (MERS), an organization of lending institutions established to serve as mortgagee of record for mortgage lenders who participate in the MERS system.

OAG, 1999-2000, No 7067, p 158 (November 29, 2000), which considered the nature of the office of county register of deeds, stated in part as follows:

Const 1963, art 7, § 4, provides for the office of county register of deeds "whose duties and powers shall be provided by law." The powers and duties assigned to this office are ministerial, not discretionary, in nature. *Youngblood v US*, 141 F2d 912, 913 (CA 6, 1944). The county register of deeds must accept for filing or recording all deeds or other instruments affecting title to real or personal property for which the law provides as long as (i) the instruments satisfy the legal requirement for form and (ii) the requisite filing or recording fees are paid. *Van Husan v Heames*, 96 Mich 504, [508-509]; 56 NW 22 (1893). [See also 1 OAG, 1955, No 2065, p 576, 578 (November 1, 1955).]

In the Recording Requirements Act, 1937 PA 103, MCL 565.201 *et seq*, the Legislature has set forth the requirements governing recordation of documents by the county register of deeds. Section 1 enumerates these requirements as they relate to the form of the document submitted for recording. Subsection (b) of this section imposes a duty on the county register of deeds to ascertain that:

A discrepancy does not exist between the name of each person as printed, typewritten, or stamped beneath their signature and the name as recited in the acknowledgment or jurat on the instrument.

No provision in the Recording Requirements Act suggests that a discrepancy will exist in a mortgage instrument simply because a mortgagee is listed as a nominee of a mortgagee who remains undisclosed.

The term "nominee" was defined in *Schuh Trading Co v Comm'r of Internal Revenue*, 95 F 2d 404, 411 (CA 7, 1938), as follows:

The word nominee ordinarily indicates one designated to act for another as his representative in a rather limited sense. It is used sometimes to signify an agent or trustee. It has no connotation, however, other than that of acting for another, or as the grantee of another. . . .

Michigan law vests no authority upon a county register of deeds to decline to record a mortgage or mortgage-related instrument on the basis that a nominee's name appears on the document. As long as the instrument conforms to the specific requirements contained in the Recording Requirements Act, a county register of deeds is required to accept and record the instrument, provided the requisite recording fees are paid.

It is my opinion, therefore, in answer to your first question, that a county register of deeds may not decline to accept for recording a mortgage, assignment of mortgage, or discharge of mortgage on the ground that the mortgagee is identified as a nominee of a disclosed or undisclosed mortgagee.

Your second question asks how a county register of deeds may list the mortgagee in the register's records when the mortgagee is identified as a nominee of a disclosed or undisclosed mortgagee.

The Conveyances, Deeds, and Mortgages Act, RS 1846, c 65, MCL 565.1 *et seq*, directs that "[e]very register of deeds shall keep an entry book of deeds and an entry book of mortgages, each page of which shall be divided into 6 columns, with title or heads to the respective columns . . ." Section 24. In that same Act, the Legislature has imposed a duty upon a county register of deeds to enter into the entry book of mortgages all mortgages and assignments of mortgages. Section 25. The register of deeds is also required to keep a general index to each set of books in which the register "shall enter alphabetically the name of each party to each instrument recorded by the register of deeds, with a reference to the book and page where the instrument is recorded." Section 28.

The first step in ascertaining legislative intent is to look to the text of the statute. *Piper v Pettibone Corp*, 450 Mich 565, 571; 542 NW2d 269 (1995). Where the language of the statute is clear and unambiguous, the Legislature's intent must be carried out according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996). In such instances, statutory construction is neither required nor permitted; rather, the court must apply the statutory language as written. *Piper*, *supra*, at 572.

It is my opinion, therefore, in answer to your second question, that when recording and indexing a mortgage document in which the mortgagee is identified as a nominee of a disclosed or undisclosed mortgagee, the county register of deeds may list the mortgagee as "nominee" or, when appropriate, nominee for identified principal.

JENNIFER M. GRANHOLM  
*Attorney General*

**COUNTIES:** County authority to regulate withdrawal of well water from underground aquifer

**PUBLIC HEALTH:**

**WATER SUPPLY:**

**A county board of commissioners lacks authority to adopt a countywide ordinance limiting the amount of well water that may be withdrawn from an underground aquifer.**

**A local health department may, by regulation, limit the amount of well water that may be withdrawn from an underground aquifer, even though the department has issued a permit to construct a well in the same aquifer, provided that (i) the regulation is necessary or appropriate to safeguard the public health; (ii) the regulation is not more restrictive than necessary to address the threat to the public health; and (iii) the regulation is at least as stringent as any standard established by state law applicable to the same or a similar subject matter.**

Opinion No. 7117

September 11, 2002

Honorable A.T. Frank  
State Representative  
The Capitol  
Lansing, MI 48909

You have asked two questions regarding a county's authority to allocate the amount of underground water that may be withdrawn by various competing classes of water users in the county. Information supplied by your office indicates that during summer months, some farmers are withdrawing greater amounts of well water for purposes of irrigating their crops, thereby lowering the level of the underground water aquifer and temporarily diminishing or depleting water available in nearby residential water wells. As a consequence, the residential water users are unable to withdraw adequate amounts of well water for drinking, cooking, bathing, and other domestic purposes.

Your first question asks whether a county has authority to adopt a countywide regulation limiting the amount of water that may be withdrawn from an underground water aquifer after issuance of a permit to install a well in the same aquifer.

Const 1963, art 7, § 1, provides that: "Each organized county shall be a body corporate with powers and immunities provided by law." Const 1963, art 7, § 8, provides that: "Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law." A county, however, has only those powers that have been granted to it by the Constitution or by the Legislature. *Alan v Wayne County*, 388 Mich 210, 245; 200 NW2d 628 (1972). A county possesses only those powers delegated to it. *Wright v Bartz*, 339 Mich 55, 60; 62 NW2d 458 (1954). A county board of commissioners has no inherent powers. *Mason County Civil Research Council v Mason County*, 343 Mich 313, 324; 72 NW2d 292 (1955).

Michigan statutes authorize various specific county ordinances - for example, certain zoning ordinances (MCL 125.201 *et seq*), animal control ordinances (MCL 287.289a), and noxious weed ordinances (MCL 247.70). Beyond such instances of express statutory authorization, noncharter counties possess only the authority to adopt ordinances pursuant to section 11(j) of the County Boards of Commissioners Act (County Act), 1851 PA 156, MCL 46.1 *et seq*, which provides, in relevant part, as follows:

A county board of commissioners, at a lawfully held meeting, may do 1 or more of the following:

\* \* \*

(j) By majority vote of the members of the county board of commissioners elected and serving, *pass ordinances that relate to county affairs* and do not contravene the general laws of this state or interfere with the local affairs of a township, city, or village within the limits of the county, . . . [Emphasis added.]

County ordinances must relate to, and are restricted to, affairs of the county, and may not interfere with the local affairs of cities, villages, or townships. OAG, 1989-1990, No 6665, pp 401, 403 (November 15, 1990); OAG, 1969-1970, No 4696, pp 197, 200 (November 25, 1970).<sup>1</sup> OAG, 1969-1970, No 4696, *supra*, at 200, concluded that noncharter counties would be interfering with cities, villages, and townships by adopting an air pollution control ordinance where cities, villages, and townships already had the power to adopt such ordinances. Similarly, OAG, 1971-1972, No 4741, p 82 (April 3, 1972), concluded that a county lacked authority to adopt an ordinance prohibiting the discharge of firearms within the county. More recently, OAG, 1989-1990, No 6665, *supra*, concluded that a county lacked authority to regulate or prohibit the placement of cigarette vending machines, and OAG, 2001-2002, No 7096, p 66 (December 26, 2001), concluded that a county lacked authority to adopt a countywide noise control ordinance.

A *countywide* well water supply ordinance, if adopted, would apply beyond the affairs of a county. County affairs are "affairs relating to the county in its organic and corporate capacity and included within its governmental or corporate powers." See OAG, 1945-1946, No 0-4471, *supra*, at 639. On the other hand, a county could enact a narrow well water supply ordinance provided that the ordinance is limited to the regulation of water wells on property owned or occupied by the county government or its boards, commissions, or agencies. See OAG, 1989-1990, No 6665, *supra*, concluding that although counties lack authority to regulate the placement of cigarette vending machines within their respective borders, they may regulate such activity on county property. See also OAG, 2001-2002, No 7096, *supra*, concluding that although counties lack authority to pass a countywide noise ordinance, counties may regulate noise on county property. Additional support for a county's limited authority to regulate its own property is found in sections 11(l) and (m) of the County Act that authorize a county board to manage the county's property (subsection (l)) and manage the interests and business concerns of the county (subsection (m)).

The Legislature has, however, vested local health departments with authority to regulate matters having a direct effect upon the public health. The Public Health Code, 1978 PA 368, MCL 333.1101 *et seq.*, grants to local health departments broad authority to adopt regulations necessary or appropriate to carry out their duties to protect the public health. Local health departments shall "promote the public health through organized programs, including prevention and control of environmental health hazards." Section 2433(1). Local health departments may "[a]dopt regulations to properly safeguard the public health and to prevent the spread of diseases and sources of contamination," (section 2435(d)), and may "adopt

<sup>1</sup>See also OAG, 1928-1930, p 477 (July 13, 1929); 1 OAG, 1957, No 2973, p 168 (April 12, 1957). Several Attorney General opinions have concluded that the regulation of various activities exceeded the authority of a county board of commissioners, including a county's regulation of "loud speaking equipment" on automobiles operating on county roads, OAG, 1941-1942, No 22046, p 448 (December 16, 1941); the handling of foodstuffs and beverages, OAG, 1943-1944, No 24970, p 163 (November 24, 1942); Sunday beer sales, OAG, 1943-1944, No 0-402, p 320 (March 16, 1943); the operation of motor boats, OAG, 1943-1944, No 0-1394, p 563 (October 18, 1943); loitering by minors where liquor is sold, OAG, 1945-1946, No 0-4471, p 639 (March 15, 1946); and Sunday sales of personal property, 1 OAG, 1957, No 2973, *supra*.

regulations necessary or appropriate to implement or carry out the duties or functions vested by law in the local health department." Section 2441(l). Regulations adopted by a county health department take precedence over inconsistent local regulations. *Id.* OAG, 1995-1996, No 6898, p 158 (May 1, 1996). Given the broad authority of local health departments to protect the public health, including authority to control environmental health hazards, and to adopt appropriate regulations, counties may, through their local health departments, regulate the amounts of well water withdrawn from an underground aquifer, provided that such regulation is necessary to protect public health. The regulation must be approved by the county board of commissioners, be at least as stringent as any standard established by state law (section 2441(1)), and be adopted only after notice and a public hearing. Section 2442. A person who violates a local health department regulation is guilty of a misdemeanor. Section 2441(2).

While counties and their agencies have only that authority delegated to them by constitution or statute, such authority "shall be liberally construed in their favor." Const 1963, art 7, § 34. OAG, 1999-2000, No 7063, p 148 (October 12, 2000), which addressed the authority of a local health department to regulate the construction of water wells, concluded that a local health department could require a permit for the construction of a water well on state university property. Local regulations lawfully adopted pursuant to statutory and constitutional authority are generally upheld if reasonably related to the protection of the public health and safety, not more restrictive than necessary to accomplish a legitimate purpose, and not preempted by state or federal law. 56 Am Jur 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 398-399, 438-439, pp 436, 478.

Where a permit for the construction of a well has already issued, a local health department is not foreclosed from regulating the amount of well water withdrawn from an underlying aquifer. The authority to issue a permit generally includes the authority to alter, amend, or modify the permit, or to subject the permit holder to further regulations. In *Dobbins v Los Angeles*, 195 US 223, 238-239; 25 S Ct 18; 49 L Ed 169 (1904), the U.S. Supreme Court observed that a municipality does not relinquish its police power by granting a permit:

[T]he right to exercise the police power is a continuing one, and a business lawful today may in the future, because of the changed situation, the growth of population or other causes, become a menace to the public health and welfare, and be required to yield to the public good. But the exercise of the police power is subject to judicial review and property rights cannot be wrongfully destroyed by arbitrary enactment. [Citations omitted.]

This principle was recognized in *Public Lands Council v Babbitt*, 529 US 728; 120 S Ct 1815; 146 L Ed 2d 753 (2000), where the U.S. Supreme Court upheld the Secretary of the Interior's right to modify existing permits issued for grazing on federal land. This principle has also been recognized by the Michigan Court of Appeals, which held that a telephone company's existing license to use the streets for telephone lines remained subject to the city's police power to construct a sewage treatment facility. *Michigan Bell Tel Co v Detroit*, 106 Mich App 690; 308 NW2d 608 (1981).

It is my opinion, therefore, in answer to your first question, that a county board of commissioners lacks authority to adopt a countywide ordinance limiting the amount of well water that may be withdrawn from an underground aquifer.

It is my further opinion that a local health department may, by regulation, limit the amount of well water that may be withdrawn from an underground aquifer, even though the department has issued a permit to construct a well in the same aquifer, provided that (i) the regulation is necessary or appropriate to safeguard the public health; (ii) the regulation is not more restrictive than necessary to address the threat to the public health; and (iii) the regulation is at least as stringent as any standard established by state law applicable to the same or a similar subject matter.

Your second question asks whether enforcement of a local health department regulation limiting the amount of well water that may be withdrawn from an underground aquifer could constitute a taking of property requiring just compensation.

Under the Michigan Constitution, private property cannot be taken for public use unless "just compensation" is first made or secured. Const 1963, art 10, § 2. The determination whether a restriction on the use of one's property constitutes a taking has been construed to require a "case-specific inquiry." *K & K Construction v Dep't of Natural Resources*, 456 Mich 570, 576; 575 NW2d 531 (1998). Although "if regulation goes too far it will be recognized as a taking," courts have acknowledged that this general rule does not lend itself to bright-line rules or precise formulations. *Tahoe-Sierra Preservation Council, Inc v Tahoe Regional Planning Agency*, 535 US \_\_\_, 122 S Ct 1465, 1480-1481; 152 L Ed 2d 517 (2002) (quoting Justice Holmes' opinion in *Pennsylvania Coal Co v Mahon*, 260 US 393; 43 S Ct 158; 67 L Ed 322 (1922)).

Thus, while it is not possible to provide a definitive answer to your second question, there are two situations where an actionable taking of property may be found based on what have been described as "categorical" or "per se" rules: (1) where government action results in the physical invasion or actual appropriation of property; and (2) where government action results in the denial of all economically beneficial or productive use of land. *K & K Construction*, 456 Mich at 576-577. An actionable taking claim may also be based on the traditional "balancing test." *Id.* Factors to be considered in determining if there has been an actionable taking include: (1) the regulation's economic effect on the landowner, (2) the extent to which the regulation interferes with reasonable investment-backed expectations, and (3) the character of the government action. *Palazzolo v Rhode Island*, 533 US 606, 617; 121 S Ct 2448; 150 L Ed 2d 592 (2001); *K & K Construction*, 456 Mich at 577. In applying these standards, it should also be noted that under Michigan law, users of water from an underground aquifer have only qualified rights to the use of that water. Such water cannot be owned; rather, it can merely be used. *United States Aviex Co v Travelers Inc Co*, 125 Mich App 579; 336 NW2d 838 (1983). Moreover, groundwater from an aquifer cannot be used so extensively as to deprive other owners of land over that aquifer of its use. *Id.*, *Maerz v United States Steel Corp*, 116 Mich App 710; 323 NW2d 524 (1982).

In the end, however, the determination whether enforcement of a local health department regulation limiting the amount of well water that may be withdrawn from an underground aquifer could constitute a taking of property requiring just compensation is a fact-driven inquiry that will turn on the specific nature and terms of the regulation, and the facts and circumstances under which it is adopted and applied.

JENNIFER M. GRANHOLM  
*Attorney General*

**LICENSES AND PERMITS: Secretary of State furnishing names and addresses of motor vehicle license applicants****MOTOR VEHICLES:****PRIVACY:****SECRETARY OF STATE:**

**The Michigan Vehicle Code does not require the Michigan Secretary of State to furnish the names and addresses of persons eligible to take road tests to private persons or entities that are under contract with the state to provide road test services.**

Opinion No. 7118

September 11, 2002

Honorable Ken DeBeaussaert  
State Senator  
The Capitol  
Lansing, MI 48909-7536

You have asked whether the Michigan Vehicle Code requires the Michigan Secretary of State to furnish lists of names and addresses of persons eligible to take road tests to private persons or entities that are under contract with the state to provide road test services.

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 *et seq.*, provides for the examination and licensing of operators of motor vehicles. Before issuing a license, the Secretary of State shall examine each applicant for an operator's or chauffeur's license. Section 309(1). The examination shall include a behind-the-wheel road test conducted by the Secretary of State or her designee. Section 309(4). The Secretary of State may enter into an agreement with "another public or private person or agency" to conduct the road test and, if she does, may prescribe the method and examination criteria. *Id.* The Secretary of State has entered into over 200 agreements with private third-party testers to provide behind-the-wheel road tests.

Information supplied with your request indicates that a private third-party tester has requested the Secretary of State to provide it with a list of names and addresses. The tester wishes to use the information for solicitation purposes, namely to inform these persons that they are eligible to take a road test and that the third-party tester is available to provide such a test.

The answer to your question requires an analysis of the following privacy provisions contained in the Vehicle Code. Section 208(c)(1) provides that personal information in a record maintained under the Vehicle Code "shall not be disclosed" unless permitted in that section or unless permitted by section 232.<sup>1</sup> Section 208c(3)(a), the statutory exception most germane to your question, provides that such information may be disclosed by the Secretary of State as follows:

(a) For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a *private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.* [Emphasis added.]

Section 232(1), which reiterates the Secretary of State's *discretion* to release driver record information, provides that:

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<sup>1</sup>A person who uses personal information for a purpose other than a permissible purpose identified in section 208(c) or 232 is guilty of a felony. Section 903(1).

Upon request, the Secretary of State *may* furnish a list of information from the records of the department maintained under this act to a federal, state, or local governmental agency for use in carrying out the agency's functions, or *to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions.* [Emphasis added.]

Although section 232(1) gives the Secretary of State discretion to release driver record information to certain specified persons, section 232(3) specifically prohibits the furnishing of this information for marketing or solicitation purposes:

The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. . . .

The first step in ascertaining legislative intent is to look to the text of the statute. *Piper v Pettibone Corp.*, 450 Mich 565, 571; 542 NW2d 269 (1995). Clear and unambiguous statutory language must be enforced by the court as written according to its plain meaning. *Dean v Dep't of Corrections*, 453 Mich 448, 454; 556 NW2d 458 (1996).

Here, the statutory language is clear. A plain reading of sections 208(c) and 232 of the Vehicle Code demonstrates that the Secretary of State may, but is not required, to furnish driver record information to private third-party testers, provided, however, that disclosure is only for purposes of carrying out the tester's functions on behalf of the state agency. Moreover, section 232(3) expressly prohibits the Secretary of State from furnishing driver record information for marketing or solicitation purposes.

In contracting with third parties to provide behind-the-wheel road tests, the Secretary of State has not committed her department to furnishing driver record information to the testers. A review of the form agreement currently used between the Secretary of State and third-party testers discloses no reason why the furnishing of such information to third-party testers is essential to their performance of road tests.

It is my opinion, therefore, that the Michigan Vehicle Code does not require the Michigan Secretary of State to furnish the names and addresses of persons eligible to take road tests to private persons or entities that are under contract with the state to provide road test services.

JENNIFER M. GRANHOLM  
*Attorney General*

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**COUNTIES:** County commissioner serving as township manager in same county

**INCOMPATIBILITY:**

**PUBLIC OFFICERS AND OFFICES:**

**The Incompatible Public Offices Act does not prohibit a person from simultaneously serving as an elected county commissioner and appointed township manager in the same county that has a voter-approved fixed allocation of millage for the county, its townships, and its intermediate school district, provided that the township manager has no responsibility for administering, negotiating, or enforcing contracts with the county.**

Opinion No. 7119

November 12, 2002

Mr. Gary L. Walker  
Marquette County Prosecuting Attorney  
234 Baraga Avenue  
Marquette, Michigan 49855

You have asked whether the Incompatible Public Offices Act prohibits a person from simultaneously serving as an elected county commissioner and appointed township manager in the same county.

The Incompatible Public Offices Act (Act), 1978 PA 566, MCL 15.181 *et seq.*, addresses the simultaneous holding of multiple public offices. Section 2 of the Act prohibits public officers and employees from simultaneously holding two or more incompatible offices. Section 1(b) defines "incompatible offices" as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

The respective positions of county commissioner and township manager in this case are neither subordinate to nor supervisory over each other. The Michigan Department of Treasury has advised that Marquette County and its townships do not compete for millage from a county tax allocation board because the county's voters have approved a fixed tax millage allocation for the county, its townships, and its intermediate school district. Nothing in the township manager's job description deals with equalization of property values. Such equalization can be provided by the County Board of Commissioners if the board believes township figures to be unequal, as allowed in MCL 211.34. This decision, however, can only be appealed by the township supervisor or assessor, not the township manager. Thus, there is no supervisory or subordinate relationship between the two offices as it relates to property tax equalization.

The issue, therefore, is whether the actual performance of the duties of each position results in a breach of duty of public office pursuant to section 1(b)(iii) of the Act. A breach of duty only occurs when the performance of the duties of the two offices actually results in a breach of duty of a public office. *Macomb County Prosecutor v Murphy*, 464 Mich 149, 163; 627 NW2d 247 (2001). A breach of duty can arise where a dual officeholder is on both sides of a contract or contractual negotiations, *Contesti v Attorney General*, 164 Mich App 271, 280-281; 416 NW2d 410 (1987), *lv den* 430 Mich 893 (1988); *Wayne County Prosecutor v Kinney*, 184 Mich App 681, 684-685; 458 NW2d 674, *lv den* 436 Mich 887 (1990), or where the

public offices compete for tax dollars. *Contesti, supra*; OAG, 1995-1996, No 6918, p 211, 212 (October 2, 1996); OAG, 1991-1992, No 6695, p 76 (August 21, 1991). If a breach of duty exists, abstention does not cure the incompatibility; rather, vacating an office is the only solution. *Contesti*, 164 Mich App at 281.

In light of these authorities, a review of the performance of the duties of county commissioner and township manager is necessary to determine whether the simultaneous holding of these two public positions would result in a breach of duty of public office under section 1(b)(iii) of the Act.

Members of the county board of commissioners are elected officials generally responsible for managing the affairs of the county. Const 1963, art 7, §§ 7, 8; MCL 46.1 *et seq*; MCL 46.401 *et seq*. Township managers are provided for by MCL 41.75a, which provides that "[t]he township board may employ a township manager . . . ." The manager "shall serve at the pleasure of the township board." Information supplied with your request indicates that the specific duties of the township manager have recently been modified and adopted by the township board. Section III of the written Job Description for this particular township's manager provides that the township manager:

Shall *not* have responsibility for the negotiation or enforcement of any contracts involving entities of the County . . . . Such responsibility shall remain within the duties and responsibility of the Township Supervisor. [Emphasis added.].

Section IV of the township manager's Job Description further establishes that, although the township manager can attend all township board meetings, the manager does not have the right to vote at the meetings. Additionally, the township manager has no responsibility to enforce or administer the one contract that does exist between this particular township and the county sheriff's department. This provision, coupled with the excluded duties in the township manager's Job Description, demonstrates that there is no present breach of duty in carrying out the duties of both county commissioner and township manager.

However, future involvement or entry into contractual relations by the manager on behalf of the township with the county for police services or any other purpose would create an incompatible situation that would require the vacation of one of the two offices.

It is my opinion, therefore, that the Incompatible Public Offices Act does not prohibit a person from simultaneously serving as an elected county commissioner and appointed township manager in the same county that has a voter-approved fixed allocation of millage for the county, its townships, and its intermediate school district, provided that the township manager has no responsibility for administering, negotiating, or enforcing contracts with the county.

JENNIFER M. GRANHOLM  
*Attorney General*

**CONCEALED WEAPONS: Outdoor park as "entertainment facility" constituting gun-free zone established by Concealed Pistol Licensing Act**

**FIREARMS:**

**LAW ENFORCEMENT:**

**MUNICIPALITIES:**

**POLICE:**

**A municipal outdoor recreation park does not, by itself, constitute an "entertainment facility" within the meaning of section 5o(1)(f) of the Concealed Pistol Licensing Act, and thus is not a gun-free zone as established by that statute.**

Opinion No. 7120

December 4, 2002

Honorable Mike Kowall  
State Representative  
The Capitol  
Lansing, Michigan 48913

You have asked whether a municipal outdoor recreation park, by itself, constitutes an "entertainment facility" within the meaning of section 5o(1)(f) of the Concealed Pistol Licensing Act that creates gun-free zones.

We understand that by the use of the term "outdoor recreation park" you mean a natural area of land and water, consisting of lawns, trees, gardens, picnic tables, baseball diamonds, tennis courts, ponds, lakes, or rivers.

The Concealed Pistol Licensing Act, 1927 PA 372, MCL 28.421 *et seq.*, regulates the possession and carrying of concealed pistols. The Act prohibits persons from carrying a concealed pistol unless they have been licensed in accordance with the provisions of that Act. Amendatory 2000 PA 381 made significant changes to the Act. Section 5b(7) sets forth specific qualifications a person must possess in order to receive a license to carry a concealed pistol and further provides that a county concealed weapon licensing board "shall issue a license" to an applicant who meets those requirements. The Act also provides that a person who is issued a license under the Act may carry a concealed pistol "anywhere in this state" except in certain designated classes of locations listed in section 5o of the Act. Section 5c(2). Those excepted locations, commonly referred to as "gun free zones," include the following:

(f) An entertainment facility that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

The statutory term "entertainment facility" is not defined by the Legislature. The question therefore arises whether a municipal outdoor park, as described in your request, constitutes an entertainment facility for purposes of the gun-free zones created by section 5o(1)(f) of the Act. Words not defined by the Legislature are to be given their generally understood meaning consistent with the intent of the Legislature. *Royal Globe Ins Co v Frankenmuth Mutual Ins Co*, 419 Mich 565, 573; 357 NW2d 652 (1984). Courts will consult dictionaries to ascertain the meaning of undefined statutory terms unless the legislative intent may be discerned from the statute itself. *People v Stone*, 463 Mich 558, 563; 621 NW2d 702 (2001). The term "entertainment" is defined as an act to divert, amuse or to cause someone's time to pass agreeably, such as a concert. *Webster's Third New International Dictionary, Unabridged* (1964). The term "facility" is defined as something built or constructed

to perform some particular function. *Id.*

A reading of all the words contained in section 5o(1)(f) of the Act supports the conclusion that the Legislature intended that the term "entertainment facility" constitute a structure or building that has a known seating capacity of 2,500 or more persons, or that has signs above each public entrance stating that the facility has a seating capacity of 2,500 or more persons. Since the Legislature has not required that an entertainment facility be totally self-enclosed, such a facility could consist of a bandshell, amphitheater, or similar structure, provided it has the required, known seating capacity noted above or has appropriate signage above each public entrance indicating a seating capacity of 2,500 or more. This reading of section 5o(1)(f) is supported by the legislative history of 2000 HB 4530, enacted as 2000 PA 231. Both House Legislative Analyses, HB 4530, June 8, 1999, and January 4, 2001, state that HB 4530 would "[p]rohibit a licensee from carrying a concealed weapon in certain public places, such as a school, theater, sports arena, library, or hospital." There is no mention in either bill analysis that an outdoor recreation park, by itself, would constitute a gun-free zone. It is appropriate to rely on the legislative history because of the ambiguity in the statutory language. *Luttrell v Dep't of Corr*, 421 Mich 93, 103; 365 NW2d 74 (1985).

While the Legislature could certainly have included municipal and other outdoor recreation parks within the Act's list of gun-free zones, it chose not to do so. An entertainment facility having a seating capacity of 2,500 or more persons clearly refers to a building or other structure. Accordingly, if an outdoor recreation park includes a band shell, amphitheater, or similar structure that has the required seating capacity, that portion of the park would constitute a gun-free zone under section 5o(f) of the Act.

Finally, section 5o of the Act is a penal statute that must be strictly construed unless the Legislature indicates otherwise. MCL 750.2; *People v Gilbert*, 414 Mich 191, 211; 324 NW2d 834 (1982). There is nothing in the Concealed Pistol Licensing Act or in its legislative history to suggest that this statute be construed in a manner different from the plain language adopted by the Legislature.

It is my opinion, therefore, that a municipal outdoor recreation park does not, by itself, constitute an "entertainment facility" within the meaning of section 5o(1)(f) of the Concealed Pistol Licensing Act, and thus is not a gun-free zone as established by that statute.

JENNIFER M. GRANHOLM  
*Attorney General*

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**CONCEALED WEAPONS: County concealed weapon licensing board's authority to issue concealed pistol license to person convicted of crime**

**County concealed weapon licensing board's authority to revoke prior restoration of right to possess firearms**

**CRIMINAL LAW:****FIREARMS:**

The Concealed Pistol Licensing Act, as amended, does not authorize a county concealed weapon licensing board, based merely upon its finding that issuing a concealed pistol license to an applicant is not detrimental to the safety of the applicant or to any other person, to issue a license to carry a concealed pistol to a person who has been convicted of: (1) a felony; (2) a misdemeanor described in section 5b(7)(h)(i)-(xxxvii) of the Concealed Pistol Licensing Act within the past eight years; or (3) any other misdemeanor within the past three years.

The Concealed Pistol Licensing Act, as amended, does not authorize a county concealed weapon licensing board to issue a concealed pistol license to an applicant convicted of a felony merely because the applicant has obtained relief from the disability to possess a firearm under both state and federal law and the board determines under section 5b(7)(o) of the Concealed Pistol Licensing Act that issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual.

**A county concealed weapon licensing board lacks the authority to revoke a restoration of firearm rights made under section 4 of the Concealed Pistol Licensing Act.**

Opinion No. 7121

December 30, 2002

Mr. Charles H. Koop  
Antrim County Prosecuting Attorney  
1905 Courthouse  
Bellaire, MI 49615-0280

You have asked several questions relating to the statutory powers of a county concealed weapon licensing board to issue licenses to carry concealed pistols. The Concealed Pistol Licensing Act (Act), 1927 PA 372, MCL 28.421 *et seq.*, regulates the possession and carrying of concealed pistols. The Act prohibits persons from carrying a concealed pistol unless they have been licensed in accordance with the provisions of the Act.

Your first question asks whether the Concealed Pistol Licensing Act, as amended, authorizes a county concealed weapon licensing board, based merely upon its finding that issuing a concealed pistol license to an applicant is not detrimental to the safety of the applicant or to any other person, to issue a license to carry a concealed pistol to a person who has been convicted of: (1) a felony; (2) a misdemeanor specified in section 5b(7)(h)(i)-(xxxvii) of the Concealed Pistol Licensing Act within the past eight years; or (3) any other misdemeanor within the past three years.

Amendatory 2000 PA 381 made significant changes to the Act, including the addition of section 1a stating the purposes behind these changes:

It is the intent of the legislature *to create a standardized system* for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and

responsibilities of individuals who have obtained a license to carry a concealed pistol . . . . [Emphasis added.]

The purpose of 2000 PA 381 was also identified in House Legislative Analysis, HB 4530 (H-2), June 8, 1999, at p 1, which states that:

Many citizens view as unfair current laws which grant county "gun boards" the entire authority for reviewing applications for carrying concealed weapons (CCW). . . . [S]ome county gun boards have liberal policies and grant thousands of licenses each year, [while] other boards are extremely restrictive in their policies and grant licenses only to certain citizens, such as elected officials or former police officers.

\* \* \*

[E]ach of these gun boards should be required to use *uniform standards* [across the state] for granting CCW licenses. [Emphasis added.]

See also Senate Legislative Analysis, SB 460 (S-9), HB 4530 (S-1), September 23, 1999, at p 1.

The standards for determining a person's eligibility to receive a license to carry a concealed pistol are delineated in section 5b of the Act. Section 5b(7) provides that a license to carry a concealed pistol shall issue only if, upon receiving an application for licensure, "the concealed weapon licensing board determines that *all* of the following circumstances exist." (Emphasis added.) The required circumstances are set forth in subsections (a) through (o), which include among other things that: The applicant is at least 21 years old and a citizen or legal resident of the United States and has been a Michigan resident for at least 6 months; the applicant has successfully completed a specified gun safety course; the applicant is not subject to certain court orders or declared mentally or legally incapacitated; and issuing the license would not be detrimental to the safety of the applicant or another person. Pertinent to your first question, in order to receive a license, the concealed weapon licensing board must also determine that the applicant has "*never* been convicted of a felony in this state or elsewhere," and that a felony charge is not pending against the applicant in this state or elsewhere at the time the applicant applies for licensure. Section 5b(7)(f). (Emphasis added.)

In order for an applicant to be licensed, the licensing board must determine that the applicant "has *not* been convicted of a misdemeanor violation" of certain offenses enumerated in section 5b(7)(h)(i)-(xxxvii), in the eight years immediately preceding the date of the application for licensure. (Emphasis added.) For other misdemeanors not described in section 5b(7)(h), the licensing board must determine that the applicant "has not been convicted" of a misdemeanor in this state or elsewhere in the three years immediately preceding the date of the application for licensure. Section 5b(7)(i).

Licensure further requires that the concealed weapon licensing board determine that "[i]ssuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual." Section 5b(7)(o). This determination does not relieve the applicant from satisfying all the other requirements specified in section 5b(7)(a)-(n) of the Act. Rather, it is one of the uniform "standards" spelled out in section 5b(7), *all* of which a license applicant must satisfy.

In construing statutes, if the statutory language is unambiguous, then the clear intent of the Legislature must be implemented as written. *Sun Valley Foods Co v Ward*, 460 Mich 230, 236; 596 NW2d 119 (1999). The standards for licensure set forth in section 5b(7)(f), (h) and (i) of the Act are plainly stated and must be given effect. Since there is no language in the statute authorizing a county concealed weapon licensing board to waive any of the statutory requirements, *all* the requirements must be met. This reading of legislative intent is also confirmed by House Legislative Analysis, HB 4530 (H-2), June 8, 1999, at pp 4-5, which explains

this provision after listing the eligibility requirements for licensure.

*In addition*, the board would have to determine that issuing a license to the applicant would not threaten the safety of the applicant or any other person. [Emphasis added.]

It is my opinion, therefore, in answer to your first question, that the Concealed Pistol Licensing Act, as amended, does not authorize a county concealed weapon licensing board, based merely upon its finding that issuing a concealed pistol license to an applicant is not detrimental to the safety of the applicant or to any other person, to issue a license to carry a concealed pistol to a person who has been convicted of: (1) a felony; (2) a misdemeanor described in section 5b(7)(h)(i)-(xxxvii) of the Concealed Pistol Licensing Act within the past eight years; or (3) any other misdemeanor within the past three years.

Your second question asks whether the Concealed Pistol Licensing Act, as amended, authorizes a county concealed weapon licensing board to issue a concealed pistol license to an applicant convicted of a felony where the applicant has obtained relief from the disability to possess a firearm under both state and federal law<sup>1</sup> and the board determines under section 5b(7)(o) of the Concealed Pistol Licensing Act that issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual.

The Act authorizes a concealed weapon licensing board to restore certain firearm rights<sup>2</sup> to a person who was prohibited from exercising such rights. The board may restore such rights five years after the person has paid all fines, served all terms of imprisonment, and completed all conditions of probation or parole for the violation that caused the prohibition. Section 4. The board must also determine that the person is not likely to act in a manner dangerous to the safety of others. *Id.*

Section 5b(7)(f) of the Act provides that to be eligible to receive a license to carry a concealed pistol an applicant must demonstrate that he or she "has *never* been convicted of a felony." (Emphasis added.) The Act contains no exception for a person who has been convicted of a felony but then obtains relief from his or her disability to possess a firearm under either state or federal law. Moreover, as explained above, the Act does not allow the board, merely by determining that issuing a license to the applicant would not be detrimental to the safety of the applicant or others, to ignore the applicant's failure to meet all of the Act's other requirements for obtaining a concealed pistol license.

It is my opinion, therefore, in answer to your second question, that the Concealed Pistol Licensing Act, as amended, does not authorize a county concealed weapon licensing board to issue a concealed pistol license to an applicant convicted of a felony merely because the applicant has obtained relief from the disability to possess a firearm under both state and federal law and the board determines under section 5b(7)(o) of the Concealed Pistol Licensing Act that issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual.

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<sup>1</sup>18 USC § 925(c) authorizes the Secretary of Treasury to grant relief to restore federal firearm privileges to persons convicted of certain offenses under federal and state law. *McHugh v Rubin*, 220 F 3d 53, 58 (CA 2, 2000), notes that this statute has been suspended since 1993 by virtue of the failure of Congress to appropriate funds to administer it.

<sup>2</sup>The rights include the right of a person to "possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm." Section 4(3).

Your third question asks whether a county concealed weapon licensing board has the authority to revoke a restoration of firearm rights made under section 4 of the Concealed Pistol Licensing Act.<sup>3</sup>

Section 4 of the Act authorizes a county concealed weapon licensing board to issue an order restoring certain enumerated firearm rights to a person who meets all of the requirements set forth in subsection (3)(a)-(c). Section 4, however, contains no provision authorizing a county weapon board to revoke a previous restoration of these rights that was properly granted under the Act. Although section 8 of the Act, as added by 2000 PA 381, does under certain circumstances authorize a county concealed weapon licensing board to revoke a previously issued *license* to carry a concealed pistol, that section applies only to the revocation of concealed pistol licenses. It does not authorize the revocation of the "written order[s]" issued under section 4(3) to restore the rights enumerated in that section.

A county concealed weapon licensing board is an administrative agency created by statute. It has only those powers conferred by statute. *Telephone Ass'n of Michigan v Public Service Comm*, 210 Mich App 662, 670; 534 NW2d 223 (1995). Neither the Act nor any other statute grants to a county concealed weapon licensing board the authority to revoke a restoration of the firearm rights made under section 4 of the Act.

It is my opinion, therefore, in answer to your third question, that a county concealed weapon licensing board lacks the authority to revoke a restoration of firearm rights made under section 4 of the Concealed Pistol Licensing Act.

JENNIFER M. GRANHOLM  
*Attorney General*

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<sup>3</sup>You have also inquired whether, upon the effective date of 2000 PA 381, July 1, 2001, the federal statutory disability to possess a firearm reattached to those persons previously convicted of felonies who had their firearms rights restored under section 4 of the Act. See 18 USC 921 and 922. A federal statute should be interpreted, in the first instance, by the federal agency that administers the statute rather than this office. In that regard, attached is an "OPEN LETTER TO THE MICHIGAN STATE POLICE AND ALL CONCERNED PERSONS" dated December 20, 2001. That letter sets forth the current interpretation of the federal statute by the Division Director of the Detroit Field Division of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury. It concludes that the federal statutory disability to possess a firearm did not reattach on July 1, 2001.



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
1155 Brewery Park Boulevard, Suite 300  
Detroit, Michigan 48207-2602

DEC 20 2001

**OPEN LETTER TO THE MICHIGAN STATE POLICE AND ALL CONCERNED PERSONS**

On July 1, 2001, a new Michigan law prohibited the issuance of a Concealed Pistol Permit (CCW) to anyone convicted of a felony offense. Michigan House Bill 4530, Act 381, Public Acts of 2000. As described below, under the new CCW provision, a felon convicted under Michigan law generally will be subject to Federal firearms prohibitions under the Gun Control Act (GCA).

As you know, the GCA generally prohibits convicted felons from shipping, transporting, possessing, or receiving firearms in interstate commerce. Convicted felons are not subject to the Federal firearms prohibition, however, if they: (1) receive a full restoration of civil rights, and (2) are not subject to any state firearms restrictions, such as a CCW restriction. Conversely, if a felon is subject to a state CCW restriction, then he or she generally is subject to the Federal firearms prohibition. See 18 U.S.C. §§ 921(a)(20), 922(g)(1); see also attached, Open Letter, March 20, 2000 (explaining Federal prohibitions and restrictions in the context of Michigan state laws and federal court decisions). Accordingly, under the new CCW provision, whether a felon convicted under Michigan state law generally will be prohibited from possessing firearms under Federal law depends on the following circumstances.

**Convicted on or after July 1, 2001:** The felon is subject to the Federal firearms prohibition if the underlying felony conviction occurred on or after July 1, 2001. The felon is **NOT** relieved of this Federal disability by obtaining an expungement or set aside of the underlying conviction under Michigan law because the felon is still subject to the restriction under the new CCW law. In this situation, to avoid the Federal firearm prohibition, the felon must obtain a gubernatorial pardon.

- ♦ **Convicted prior to July 1, 2001:** The felon similarly is subject to the Federal prohibition if the underlying felony conviction occurred prior to July 1, 2001. In this case, to avoid the Federal firearm prohibition, prior to July 1, 2001, the felon must have completed all sentencing terms and conditions, and must have removed any and all firearms restrictions under the state's felon-in-possession and predecessor CCW provisions; **OR**, prior to July 1, 2001, the felon must have received a set aside or expungement. Alternatively, a felon who obtained a gubernatorial pardon will also avoid the Federal firearms prohibition.

It is important to note that if the underlying felony conviction occurred in another jurisdiction (either another state or in any Federal jurisdiction under Federal law) then the status of the convicted felon is determined by the law of that jurisdiction. Once again, we understand the concern this change may cause for your office and interested citizens of the State of Michigan, however we are obligated to comply with appropriate federal court decisions. If you have any further questions, please contact our Office of Division Counsel at (313) 259-7938.

Sincerely yours,

*Michael W. Morrissey*  
Michael W. Morrissey  
Division Director,  
Detroit Field Division

Attachment

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DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

1155 Brewery Park Boulevard, Suite 300  
Detroit, Michigan 48207-2602  
March 20, 2000

OPEN LETTER TO THE MICHIGAN STATE POLICE AND ALL CONCERNED PERSONS

This is to apprise you of the recent decision by the United States Sixth Circuit Court of Appeals in Hampton v. United States, 191 F. 3d 695 (6th Cir. 1999). This decision affects whether certain Michigan felons are prohibited from receiving or possessing firearms under Federal law.

The Gun Control Act of 1968 ("GCA") makes it unlawful for any person who has been convicted of a crime punishable by imprisonment for a term exceeding one year to ship, transport, possess or receive a firearm. 18 U.S.C. § 922(g)(1). What constitutes a "conviction" for such a crime must be determined in accordance with the law of the jurisdiction in which the proceedings were held. 18 U.S.C. § 921(a)(20). Any conviction for which a person has received a pardon, expungement, or restoration of civil rights shall not be considered a conviction for GCA purposes, unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms. Id.

A State restores a felon's civil rights for purposes of the GCA only if it allows him or her to vote, to hold public office, and to serve on a jury. Under Michigan law, a convicted felon is entitled to vote and hold public office once he or she is released from custody. Prior to the Hampton decision, the Sixth Circuit held in several cases that Michigan law did not restore the right to sit on a jury to Michigan felons upon completion of sentence. This line of cases was overturned by the Hampton decision, which held that Michigan law restores a felon's right to sit on a jury upon completion of his or her sentence.

Based on the Hampton decision, an individual who has been convicted of a felony in Michigan has his or her civil rights substantially restored upon completion of sentence. In determining whether the convicted felon still has Federal firearms disabilities, however, it is necessary to examine Michigan law to determine whether the felon is still subject to any restrictions on his or her firearms rights. In Caron v. United States, 524 U.S. 308; 118 S. Ct. 2007, 2012 (1998), the Supreme Court held that Federal law prohibited convicted felons whose civil rights had been restored from receiving or possessing firearms if State law imposed even a partial restriction on their firearms rights.

Michigan law places a convicted felon under two types of state firearms restrictions. The first restriction is under Mich. Comp. Laws Ann. § 750.224f, which prohibits a convicted felon from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving or distributing firearms. This restriction separates convicted felons into two categories; those convicted of specified felonies and those who are not. If the felony conviction

Attachment 1

WWW.ATF.TREAS.GOV

2

categorized as a "specified felony", the felon is subject to this restriction for a period of five (5) years after he/she has met all conditions of sentence, i.e. released from prison, paid all fines, and completed all terms of probation and parole. Further, after this five (5) year period has expired the "specified felon" must also apply for and receive a restoration of his or her state firearms rights from the local concealed weapons licensing board (gun board). Mich. Comp. Laws Ann. § 750.224f(2)(b). A specified felony is defined under Mich. Comp. Laws Ann. § 750.224f(6) and includes crimes of violence against a person or property, burglaries (and breaking and entering) of occupied dwellings; drug offenses; offenses involving the possession or distribution of a firearm; offenses where there was the unlawful use of an explosive; and arson.


Mich. Comp. Laws Ann. § 750.224f creates a different restriction for felons convicted of "non-specified" felonies. A "non-specified" felon is subject to the same restrictions as those convicted of "specified felonies" but only for a period of three (3) years after completion of all conditions of sentence. Further, there is no requirement for a felon convicted of a "non-specified" felony to obtain a restoration of his or her state firearms right from the local gun board.

The second state law firearms restriction is imposed under Mich. Comp. Laws Ann. § 28.426(b) which provides that an application for a concealed weapons license cannot be approved if the applicant was convicted of a felony or confined for a felony in this state or elsewhere during the eight (8) years immediately preceding the date of his application. It is important to note that this restriction applies to all convicted felons across the board and does not categorize them based upon the type of felony conviction.

An individual who has been convicted of a felony in Michigan is still subject to Federal firearms disabilities after completion of his or her sentence if Michigan law places any restrictions on that felon's state firearms rights. Unless the convicted felon's firearms rights have been completely restored under State law he/she is subject to the Federal prohibition on receipt or possession of a firearm. Accordingly, if a convicted felon is subject to either of the firearms restrictions under Mich. Comp. Laws Ann. §§ 750.224f or 28.426 he or she is still subject to firearms disabilities under Federal law.

If you have any further questions, please contact our Office of Division Counsel at (313) 393-6000.

Sincerely yours,

  
Michael W. Morrissey  
Division Director  
Field Division

## DIVISION REPORTS

### Agriculture Division\*

Ronald C. Zellar, Assistant in Charge

The Agriculture Division advises and represents the Michigan Department of Agriculture (MDA), the Agriculture Commission, the Agricultural Marketing and Bargaining Board, 15 agricultural commodity committees, the Michigan and Upper Peninsula State Fairs, and soil conservation districts. The division prosecutes and defends claims and provides legal representation in federal and state courts and administrative tribunals.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	0	0	0	2	0	2
Circuit Court	5	3	5	3	3	4	2
Court of Claims	3	0	3	0	0	0	0
Court of Appeals	2	3	2	3	1	3	1
Supreme Court	1	1	1	1	2	2	1
<b>Total</b>	<b>11</b>	<b>7</b>	<b>11</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>6</b>
<b>U.S. Courts</b>							
District Court	1	0	1	0	1	1	0
U.S. Bankruptcy Ct.	1	0	1	0	1	1	0
<b>Total</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>
<b>Admin. Actions</b>	3	7	9	1	1	2	0

#### Other Significant Division Activity:

The Agriculture Division continued its efforts in working with MDA to control and eradicate bovine tuberculosis in livestock, wild deer, and other wild animals in north-eastern lower Michigan. This division worked with MDA in preparing an emergency management plan to combat foot and mouth disease and worked on terrorism legislation and emergency plans for the agriculture industry. This Division was successful in upholding the constitutionality of the recently enacted wolfdog legislation and shut down an individual's website that appeared to be created and sanctioned by a state agency.

\* Effective November 1, 2002, the Agriculture Division was merged with the Natural Resources and Environmental Quality Division. The two divisions form the Environment, Natural Resources, and Agriculture Division with A. Michael Leffler as the Assistant in Charge.

**Appellate Division**

Thomas L. Casey, Solicitor General  
Assistant in Charge

The Appellate Division consults with Assistant Attorneys General concerning potential appellate issues arising in the conduct of trials and post-trial proceedings; determines whether to appeal orders and judgments; and provides assistance to all divisions within the Department of Attorney General in appeals to state and federal courts of appeal and supreme courts. The Appellate Division's primary function is to review, edit, and approve all documents filed in appellate courts in order to assure compliance with court rules, consistency among all divisions, and quality of presentation of legal arguments. In addition to supervising the appellate activity of cases assigned to other divisions, the Appellate Division takes over responsibility for writing briefs and presenting oral arguments in several such cases each year. The Appellate Division also reviews requests from other states asking our office to join amicus briefs in significant cases, particularly cases in the United States Supreme Court; reviews proposed amicus briefs; and makes recommendations to the Deputy Attorney General whether the State of Michigan should join the briefs (approximately 86 cases for the 2001-2002 period).

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit	0	0	0	0	1	0	1
<b>U.S. Courts</b>							
6th Circ Ct of Appeals	0	0	0	0	2	1	1
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>2</b>

<b>Other Significant Division Activity:</b>	<b>2001</b>	<b>2002</b>
Pleadings reviewed	1429	1497
Consultations with Assistant Attorneys General	1893	1921

**Casino Control Division\***

Eric J. Eggan, Assistant in Charge

The Casino Control Division advises and represents the Michigan Gaming Control Board and the Michigan State Police Gaming Section on matters pertaining to casino gambling authorized under the Michigan Gaming Control and Revenue Act, 1996 initiated law, as amended, 1997 PA 69. The division's activities include legal assistance to Gaming Control Board and State Police investigators conducting background investigations on casino-related license applicants. The division also represents the State's interests in Gaming Control Board licensing and disciplinary actions, attends Board meetings, and drafts opinions and memoranda of law on questions related to casino gambling in Michigan. In January 2001, the division began handling casino-related criminal prosecutions in Detroit.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	197	88	109	160	134	135
Circuit Court	2	52	29	25	82	75	32
Court of Appeals	1	0	1	0	1	0	1
Supreme Court	1	0	1	0	0	0	0
<b>Total</b>	<b>4</b>	<b>249</b>	<b>119</b>	<b>134</b>	<b>243</b>	<b>209</b>	<b>168</b>
<b>U.S. Courts</b>							
District Court	0	1	0	1	2	2	1
6th Circ Ct of Appeals	2	0	1	1	1	1	1
<b>Total</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>2</b>
<b>Admin. Actions</b>	30	27	33	24	10	27	7
<b>Monies Paid To/By the State:</b>					<b>2001</b>	<b>2002</b>	
All Judgments/Settlements paid TO State					\$20,532.50	\$1,122,067.50	

\* Effective November 1, 2002, the Casino Control Division was merged with the Liquor Control and Lottery and Racing Divisions. The three divisions form the Alcohol and Gambling Division with Eric J. Eggan as the Assistant in Charge.

### Children & Youth Services Division

Judy A. Hartsfield, Assistant in Charge

The Children and Youth Services Division provides legal advice and representation to the Michigan Family Independence Agency in litigation and appellate work involving child abuse and neglect cases in Wayne County.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	8,760	3,602	3,670	8,692	4,024	4,697	8,019
Court of Appeals	189	173	177	185	223	203	205
Supreme Court	2	6	6	2	9	9	2
<b>Total</b>	<b>8,951</b>	<b>3,781</b>	<b>3,853</b>	<b>8,879</b>	<b>4,256</b>	<b>4,909</b>	<b>8,226</b>

#### Other Significant Division Activity:

The CYS Division prepared and served 8,005 subpoenas in 2001 and 8,095 subpoenas in 2002.

### Civil Rights & Civil Liberties Division

Ron D. Robinson, Assistant in Charge

The Civil Rights & Civil Liberties Division advises and represents the Michigan Civil Rights Commission (MCRC) and the Michigan Department of Civil Rights (MDCR) and cooperates with other state departments and agencies in addressing civil rights and civil liberties related matters.

The division prepares and files formal charges issued by the MDCR alleging civil rights violations and represents the MDCR at formal administrative hearings and appeals taken. In cases that the Attorney General determines present issues of major significance to the jurisprudence of the State and in which the MCRC is not a party, the division represents the MCRC as an intervenor or amicus curiae.

The division brings court proceedings to enforce orders issued by the MCRC or the MDCR and seeks injunctive relief in cases of unlawful discrimination in the areas of housing and public accommodation.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	8	33	28	13	32	40	5
Court of Claims	0	0	0	0	1	1	0
Court of Appeals	0	2	2	0	1	1	0
Supreme Court	0	1	0	1	1	2	0
<b>Total</b>	<b>8</b>	<b>36</b>	<b>30</b>	<b>14</b>	<b>35</b>	<b>44</b>	<b>5</b>
<b>US Courts</b>							
District Court	0	0	0	0	2	1	1
6th Circ Ct of Appeals	0	2	2	0	0	0	0
<b>Total</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>
<b>Admin. Actions</b>	<b>6</b>	<b>3</b>	<b>3</b>	<b>6</b>	<b>3</b>	<b>7</b>	<b>2</b>

#### Other Significant Division Activity:

Legal Review Cases	7
Enforcement Cases	38
Monitor Cases	9

### Collections and Tax Enforcement Divisions\*

E. David Brockman, Assistant in Charge

The Collections and Tax Enforcement Division represents all state departments in collecting monies owed to the State in the following counties: Genesee, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, Sanilac, Shiawasee, St. Clair, Washtenaw, and Wayne. In addition, the division defends corporate officer liability assessments in the Michigan Tax Tribunal.

The division also sues state inmates to recover the cost of their incarceration under the State Correctional Facilities Reimbursement Act. The division represents the Michigan Department of Treasury in the United States Bankruptcy Court for the Eastern District of Michigan, in order to collect state taxes owed by bankrupt debtors.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	1064	732	586	1210	287	513	984
Probate Court	38	25	25	38	33	25	46
Circuit Court	433	251	207	477	227	253	451
Court of Claims	1	2	2	1	2	0	3
Court of Appeals	15	6	13	8	7	5	10
Municipal	0	1	0	1	0	0	1
Supreme Court	1	0	1	0	1	0	1
<b>Total</b>	<b>1552</b>	<b>1017</b>	<b>834</b>	<b>1735</b>	<b>557</b>	<b>796</b>	<b>1496</b>

#### U.S. Courts

District Court	6	12	3	15	0	9	6
6th Circ Ct of Appeals	2	2	0	4	0	1	3
U.S. Bankruptcy Ct.	1726	1146	680	2192	1408	1324	2276
<b>Total</b>	<b>1734</b>	<b>1160</b>	<b>683</b>	<b>2211</b>	<b>1408</b>	<b>1334</b>	<b>2285</b>

#### Admin. Actions

Mich. Tax Tribunal	43	2	24	21	0	5	16
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#### Monies Paid To/By the State:

	2001	2002
All Judgments/Settlements paid TO State	\$7,636,836.46	\$8,642,871.51

\* Effective November 1, 2002, the Collections and Tax Enforcement Division was merged with the Revenue Division. The two divisions form the Revenue and Collections Division with Russell E. Prins as the Assistant in Charge.

### Community Health Division\*

Ronald J. Styka, Assistant in Charge

The Community Health Division provides legal advice and representation to public health programs within the Departments of Community Health and Consumer & Industry Services. It also acts as general counsel to the Department of Community Health and provides legal advice and representation concerning the public and mental health codes. The division enforces laws through administrative and court actions against nursing homes, hospitals, homes for the aged, substance abuse service providers, emergency medical services, medical waste producers, certain licensed and certified care providers, and grocery stores that serve as vendors in nutritional food programs. Also, the division is involved with health planning and Medicaid and

Medicare reimbursement issues, and provides legal services with regard to the collection and preservation of vital statistics and health records and the administration of medical services for crippled children. The division represents the Department of Community Health, its officers and employees in litigation arising out of the public provision of health services, which involves claims of deprivation of constitutional and civil rights, contract actions, and dismissal of employees. Finally, the division may also represent the Department of Community Health in administrative matters before the Department of Civil Service and in administrative hearings to determine the financial liability of recipients of services, as well as in appeals to the courts from these and other administrative decisions.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	1	0	1	0	0	1
Probate Court	5	19	16	8	6	2	12
Circuit Court	11	28	24	15	23	8	30
Court of Appeals	2	2	2	2	2	1	3
Supreme Court	1	0	0	1	0	0	1
<b>Total</b>	<b>19</b>	<b>50</b>	<b>42</b>	<b>27</b>	<b>31</b>	<b>11</b>	<b>47</b>
<b>U.S. Courts</b>							
District Court	6	4	1	9	6	2	13
Out-of-State Court	0	1	0	1	0	1	0
<b>Total</b>	<b>6</b>	<b>5</b>	<b>1</b>	<b>10</b>	<b>6</b>	<b>3</b>	<b>13</b>
<b>Admin. Actions</b>	45	74	49	70	50	36	84
<b>Monies Paid To/By the State:</b>					<b>2001</b>	<b>2002</b>	
All Judgments/Settlements paid TO State					\$120,955.00	\$101,000.00	
All Judgments/Settlements paid BY State					\$43,500.00	\$2,766,996.28	

#### Other Significant Division Activity:

The division provides legal expertise to state agencies on the Health Insurance Portability and Accountability Act (HIPAA) through the Attorney General's HIPAA Workgroup. It also interacts with the Federal Food and Drug Administration with regard to health care frauds, especially the AIDS Fraud Task Force. The division is also defending the state in four multi-million dollar products liability cases involving the anthrax vaccine and former U.S. military personnel.

\* Effective November 1, 2002, the Community Health Division was merged with the Public Administration Division. The two divisions form the Community Health and Public Administration Division with Ronald J. Styka as the Assistant in Charge.

### Consumer Protection Division

Stanley F. Pruss, Assistant in Charge

The principal function of the Consumer Protection Division is investigating and mediating consumer complaints and encouraging compliance with consumer protection and antitrust laws. The division administers directly or indirectly more than 35 state statutes. Under many of these statutes, the Consumer Protection Division has exclusive or primary compliance and enforcement jurisdiction. By statutory prescription, the division issues licenses to charities and professional fund raisers acting on their behalf; registers charitable trusts, public safety organizations and their fund

raisers; and is a necessary party to any probate estate having a residuary devise to a charitable entity. Franchisees must provide the division with notice of their intent to offer or sell franchises. The division also regulates the offer and sale of franchises, offerings of "business opportunities," and enforces consumer laws against offerors of pyramid investment scams. The division represents the Bureau of Regulatory Services within the Department of State. An important part of the division's mission is to engage in consumer education initiatives commensurate with available resources.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	654	105	129	630	87	430	287
Circuit Court	3	9	2	10	6	10	6
Court of Appeals	0	0	0	0	1	1	0
<b>Total</b>	<b>657</b>	<b>114</b>	<b>131</b>	<b>640</b>	<b>94</b>	<b>441</b>	<b>293</b>

#### U.S. Courts

District Court	2	0	0	0	2	0	4
<b>Total</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>

<b>Admin. Actions</b>	624	68	422	270	42	39	273
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#### Other Significant Division Activity:

	2001	2002
<b>Consumer Protection Section:</b>		
Consumer complaints	23,167	25,127
Monies recovered for consumers	\$1,761,743	\$2,175,091

#### Franchise and Antitrust Section:

Franchise registrations	916	1,049
Business opportunity registrations	30	23
Franchise Enforcement Actions:		
Franchise law violations	10	5
Business opportunity violations	2	4
Franchise fees	\$229,000	\$240,000
Civil penalties and investigative costs	\$95,415	\$20,492
Recoveries for consumers		\$731,738

#### Antitrust Actions:

	7	8
Antitrust civil penalties, state recoveries and <i>cy pres</i> distributions	\$2,011,615	\$1,628,078
Recoveries for consumers		\$882,326

#### Charitable Trust Section:

Files opened for determination of applicability of charitable trust and solicitation requirements	859	915
Nonprofit corporate dissolutions closed	148	215
Charitable solicitation licenses issued	3815	4578
Charitable solicitation professional fund raiser licenses issued	286	260
Public safety registrations issued	81	74
Public safety professional fund raiser registrations issued	19	18
Registered charitable trusts	8039	8349
Charitable trust assets	\$52,223,524,504	\$59,985,094,232

## Corrections Division

Leo H. Friedman, Assistant in Charge

The Corrections Division provides legal advice and representation to the Michigan Department of Corrections and the Michigan Parole Board. While the majority of the workload consists of the representation of the Department of Corrections and the Michigan Parole Board and their employees in the federal and state court systems, the division also provides legal advice and consultation regarding employment issues, contracts, etc., as well as interpretation of state and federal constitutions, statutes and rules, agency decisions, policies and procedures.

### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	5	3	5	3	3	1	5
Probate Court	0	3	2	1	4	0	5
Circuit Court	684	751	728	707	1054	696	1065
Court of Claims	38	21	31	28	14	14	28
Court of Appeals	156	136	188	104	134	100	138
Supreme Court	34	72	60	46	27	29	44
<b>Total</b>	<b>917</b>	<b>986</b>	<b>1014</b>	<b>889</b>	<b>1236</b>	<b>840</b>	<b>1285</b>
<b>U.S. Courts</b>							
District Court	249	172	155	266	202	183	285
6th Circ Ct of Appls.	74	78	69	83	99	100	82
USSC	7	5	7	5	6	7	4
U.S. Bankruptcy Ct.	0	1	0	1	0	1	0
<b>Total</b>	<b>330</b>	<b>256</b>	<b>231</b>	<b>355</b>	<b>307</b>	<b>291</b>	<b>371</b>
<b>Admin. Actions</b>	0	0	0	0	8	4	4
<b>Monies Paid To/By the State:</b>				<b>2001</b>		<b>2002</b>	
All Judgments/Settlements paid TO State				\$ 38,535.49		\$ 57,534.49	
All Judgments/Settlements paid BY State				\$ 248,599.61		\$ 159,371.77	

## Criminal Division

Robert Ianni, Assistant in Charge

The Criminal Division investigates and prosecutes criminal cases based on the Attorney General's common law and statutory duties as Michigan's chief law enforcement officer, and her statutory responsibility to supervise Michigan's 83 prosecuting attorneys.

A major function of the Criminal Division is to investigate alleged criminal activity, including inquiry into allegations of public official misconduct and crimes against the State of Michigan. Major criminal investigations are conducted independently or in cooperation with local, state, and federal law enforcement agencies.

The Criminal Division oversees the Money Laundering/Financial Crimes and Conspiracy Crimes Section, a federally funded, multi-agency task force that assists local law enforcement in complex financial investigations. The team is specially trained in asset tracing and computerized evidence retrieval techniques and facilitates asset forfeitures and prosecutes, or assists in prosecuting, cases under Michigan's money laundering and racketeering statutes.

The High Tech Crime Unit (HTCU) is a component of the Criminal Division. The HTCU was created to prosecute crimes such as computer intrusion or "hacking," Internet fraud, threats and harassment, online child solicitation and distribution of child pornography, and identity theft/credit card fraud involving use of the Internet or computers, and sale of drugs or other contraband over the Internet. The HTCU also provides training for prosecutors, investigators, and others in cyber crime issues and acts as a clearinghouse for information and assistance to prosecutors and investigators handling high tech crimes cases.

The Attorney General, through the Detroit Criminal Division, has prosecuted all welfare recipient fraud cases in Wayne County since 1978. Most recipient fraud is discovered through wage match programs and is investigated and referred for prosecution by the Office of Inspector General, Michigan Family Independence Agency. In September of 2002, the Criminal Division took over tax enforcement functions from the Collections Division. The section, renamed the "Tax and Welfare Fraud Section," prosecutes tax cases that are investigated by the Michigan State Police in cooperation with the Department of Treasury.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	102	93	150	45	99	92	52
Circuit Court	228	345	245	328	414	529	213
Court of Claims Tribunal	0	0	0	0	4	3	1
	0	0	0	0	2	0	2
Court of Appeals	11	10	10	11	14	8	17
Supreme Court	1	3	3	1	6	3	4
<b>Total</b>	<b>342</b>	<b>451</b>	<b>408</b>	<b>385</b>	<b>539</b>	<b>635</b>	<b>289</b>
<b>U.S. Courts</b>							
District Court	7	5	2	10	36	8	38
6th Circ Ct of Appeals	0	0	0	0	1	0	1
<b>Total</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>10</b>	<b>37</b>	<b>8</b>	<b>39</b>
<b>Admin. Actions</b>	0	1	0	1	11	3	9
<b>Criminal Investigations</b>	122	118	118	122	117	116	123
<b>Other Significant Division Activity:</b>					<b>2001</b>	<b>2002</b>	
Citizen Correspondence Answered					1,480	1,975	
Extraditions Reviewed					230	240	
Michigan State Police Questioned Orders					318	340	
Petitions to Set Aside Convictions Reviewed					1,483	1,519	
WF Diversions Restitution Ordered					\$6,725,784	\$2,017,840	
Welfare Fraud Diversions Opened					1,260	387	
(Welfare fraud felonies are included with court statistics above.)							

#### Detroit Office Division/Driver License Restoration Section

Ron D. Robinson, Assistant in Charge

The Detroit Office provides general administrative supervision to all Detroit-based divisions, sections, and satellite offices. The office also acts as a liaison to local governmental and civil entities in southeastern Michigan. In addition to the above functions, the office provided direct supervision of the Driver License Restoration Section. The Driver License Restoration Section represents the

Michigan Secretary of State in driver license restoration matters in Wayne, Oakland and Washtenaw Counties, and handles out-county appeals referred by the Secretary of State.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	3765	447	1707	2505	1119	0	3624
Court of Appeals	8	11	3	16	24	12	28
Supreme Court	0	0	0	0	2	0	2
<b>Total</b>	<b>3773</b>	<b>458</b>	<b>1710</b>	<b>2521</b>	<b>1145</b>	<b>12</b>	<b>3654</b>

**Economic and Career Development Division\***

Thomas F. Schimpf, Assistant in Charge

The Economic and Career Development Division advises and represents the Department of Career Development and the Department of History, Arts and Libraries. The division also provides legal advice and representation for the Michigan Strategic Fund, the Michigan Economic Growth Authority, and the Community Development Block Grant Program.

The division advises and represents the Michigan Education Trust (the State's prepaid tuition program) and the Michigan Education Savings Program (the State's new college savings fund). The division provides litigation representation for all of the State's bonding authorities and, in particular, the Michigan State Housing Development Authority. The division also advises the Department of Environmental Quality on financial transactions.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	0	0	0	1	0	1
Circuit Court	12	8	13	7	16	16	7
Court of Claims	1	0	1	0	1	1	0
Court of Appeals	4	0	1	3	0	3	0
Supreme Court	0	0	0	0	2	0	2
<b>Total</b>	<b>17</b>	<b>8</b>	<b>15</b>	<b>10</b>	<b>20</b>	<b>20</b>	<b>10</b>

**U.S. Courts**

District Court	1	1	1	1	2	2	1
6th Circ Ct of Appeals	1	0	1	0	0	0	0
U.S. Bankruptcy Ct.	6	2	4	4	2	2	4
<b>Total</b>	<b>8</b>	<b>3</b>	<b>6</b>	<b>5</b>	<b>4</b>	<b>4</b>	<b>5</b>

<b>Admin. Actions</b>	0	1	0	1	1	1	1
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**Monies Paid To/By the State:**

	2001	2002
All Judgments/Settlements paid TO the State	\$525,675.46	\$0
All Judgments/Settlements Paid BY the State	\$5,000.00	\$0

**Other Significant Division Activity:**

During 2001-2002, the Economic and Career Development Division handled 229 written requests for legal advice or assistance involving the various departments and programs represented by this division.

\* Effective November 1, 2002, the Economic and Career Development Division was merged with the Retirement Division. The two divisions form the Economic Development and Retirement Division with Thomas F. Schimpf as the Assistant in Charge.

**Education Division**

Edith C. Harsh, Assistant in Charge

The Education Division serves as legal counsel to the Michigan Department of Education, the State Board of Education, the Superintendent of Public Instruction, the State Tenure Commission, and the Michigan Merit Award Board. The division also represents the Michigan School for the Deaf and Blind, the Department of Treasury in matters relating to the State School Bond Loan Fund and the Michigan Merit Award program, the Department of Career Development in matters relating to community colleges, and the Center for Educational Performance & Information in the Department of Management & Budget. As counsel to these entities, the division provides representation in all litigation and provides ongoing legal advice not only to these agencies, but also to the Department of Management and Budget and the Department of State Police regarding school finance and education law issues. The division also responds to a large number of opinion and information requests from legislators, school districts, and the public.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	1	5	2	4	6	6	4
Court of Claims	0	2	2	0	0	0	0
Court of Appeals	3	0	1	2	0	2	0
Supreme Court	2	0	0	2	2	0	4
<b>Total</b>	<b>6</b>	<b>7</b>	<b>5</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>
<b>U.S. Courts</b>							
District Court	3	3	2	4	1	1	4
<b>Total</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>4</b>
<b>Admin. Actions</b>	1	34	13	22	6	19	9

**Monies Paid To/By the State:**

	<b>2001</b>	<b>2002</b>
All Judgments/Settlements paid BY State	\$0	\$315,336.67

**Other Significant Division Activity:**

In addition to the above, the division reports a dollar amount paid out in the Berry desegregation case by fiscal year 2000-01 (this amount was taken from the report filed by the Department of Education with the Senate Fiscal Agency and represents monies paid pursuant to a 1981 Remedial Order of the USDC-WD):

**2000-2001** – \$1,368,305.97      **2001-2002** – \$2,068,017.58

### Executive Division

William J. Richards, Deputy Attorney General

The Executive Division, headed by the Deputy Attorney General, consists of executive level staff whose duties include implementing policy and management decisions, performing special assignments for the Attorney General, responding to public speaking requests and preparing speeches for the Attorney General, responding to news media requests for information and Attorney General position statements, and liaison with the Legislature.

The Executive Division staff provides legal counsel to various boards, commissions, and councils, including the State Board of Ethics. The division researches and coordinates legal issues that concern all other divisions.

The Executive Division assigns, coordinates, and reviews all formal and informal legal opinions prepared on behalf of the Attorney General. The division reviews and approves the filing of all lawsuits brought by the State, and approves all lawsuit settlements and criminal case guilty pleas.

	2001	2002
NUMBER OF OPINION REQUESTS	211	184

### Finance Division

Terrence P. Grady, Assistant in Charge

The Finance Division serves as general counsel, as well as financial, tax, securities, and issuers' counsel, on all bond or note issuances by the State or any of its agencies, departments, authorities, or instrumentalities. The division also provides legal services in connection with state surplus funds and state pension fund investments. The division prepares loan, grant, and investment documentation, bond documents, financial assurance documentation, and generally any and all types of documentation necessary or appropriate to the transactional needs of the State.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Court of Claims	2	0	1	1	0	0	1
Court of Appeals	0	1	1	0	0	0	0
Supreme Court	0	1	0	1	0	0	1
<b>Total</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>U.S. Courts</b>							
U.S. Bankruptcy Ct.	1	0	0	1	0	0	1
<b>Total</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
Out-of-State Courts	1	0	0	1	0	1	0
<b>Other Significant Division Activity:</b>							
Financial Transactions					2001 444		2002 413
Principal Amount					\$9,201,314,572	\$8,380,277,084	

## Freedom of Information and Municipal Affairs Division

George M. Elworth, Assistant in Charge

The Freedom of Information and Municipal Affairs Division is responsible for providing advice and counsel to all state agencies and officials regarding Michigan's Freedom of Information Act and Open Meetings Act, as well as representing state agencies in lawsuits brought pursuant to these acts. The division provides legal counsel to the Children's Ombudsman and the Auditor General. The division also responds to citizen inquiries received by the Attorney General.

Assignments related to municipal law include representation of the State Boundary Commission, the Local Audit and Finance Division of the Michigan Department of Treasury, and review of proposed city and village charters and charter amendments and interlocal agreements. The division is also counsel to and represents the state's Adjutant General, the Department of Military and Veterans Affairs and its boards and agencies, such as the State Military Board, the Veterans' Trust Fund Board, and the Veterans' Homes Board.

Through its assistant in charge, the division serves as special counsel to the Attorney General on public finance and sits as the designee of the Attorney General on the boards of the State Employees' Retirement System, the Judges' Retirement System, and the Michigan State Police Retirement System.

### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	1	0	1	0	0	0	0
Circuit Court	44	18	31	31	20	17	34
Court of Claims	2	0	2	0	1	1	0
Court of Appeals	4	7	7	4	2	4	2
Supreme Court	4	2	6	0	1	1	0
<b>Total</b>	<b>55</b>	<b>27</b>	<b>47</b>	<b>35</b>	<b>24</b>	<b>23</b>	<b>36</b>

<b>Monies Paid To/By the State:</b>	<b>2001</b>	<b>2002</b>
All Judgments/Settlements paid TO State	0	\$7,105.76
All Judgments/Settlements paid BY State	\$53,293.20	\$40,012.31

<b>Other Significant Division Activity:</b>	<b>2001</b>	<b>2002</b>
City and village charters	1	5
Charter amendments	94	93
Interlocal agreements	4	17

## Habeas Corpus Division

Brenda E. Turner, Assistant in Charge

The Habeas Corpus Division represents wardens of Michigan Department of Corrections' facilities, the Attorney General, and the Governor, in federal court actions for writs of habeas corpus filed by state prisoners challenging the constitutionality of their incarceration.

### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
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**U.S. Courts**

District Court	763	510	601	672	522	573	621
6th Circ Ct of Appeals	252	407	379	280	375	386	269
USSC	5	2	5	2	0	1	1
<b>Total</b>	<b>1,020</b>	<b>919</b>	<b>985</b>	<b>954</b>	<b>897</b>	<b>960</b>	<b>891</b>

**Health Care Fraud Division**

Wallace T. Hart, Assistant in Charge

The Attorney General's Health Care Fraud Division investigates and prosecutes Medicaid provider fraud and health care facility resident abuse and neglect. The Health Care Fraud Division is one of 47 federally certified Medicaid Fraud Control Units. It is a self-contained investigation and prosecution division with attorneys, auditors, and investigators on staff. Medicaid fraud investigations and prosecutions can include false billings, unlawful delivery of controlled substances, practicing medicine without a license, kickbacks, and bribery schemes. Abuse and neglect investigations and prosecutions include physical assault, criminal sexual conduct, theft of residents' property and funds, and harmful neglect in Michigan resident care facilities. The division also initiates civil actions, including forfeiture and claims for Medicaid overpayments giving rise to treble damage penalties, interest, and costs. In conducting its activities, the division also works closely with other agencies such as the Federal Bureau of Investigation, Drug Enforcement Administration, Department of Justice, Michigan State Police, state regulatory agencies, local law enforcement agencies, and private health insurance companies.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	38	46	44	40	33	40	33
Circuit Court	57	34	56	35	36	41	30
Court of Appeals	4	1	2	3	5	5	3
Supreme Court	1	4	3	2	3	3	2
<b>Total</b>	<b>100</b>	<b>85</b>	<b>105</b>	<b>80</b>	<b>77</b>	<b>89</b>	<b>68</b>

**US Courts**

District Court	0	1	1	0	0	0	0
U.S. Bankruptcy Ct.	0	3	2	1	0	0	1
<b>Total</b>	<b>0</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>

**Other Significant Division Activity:**

Number of Complaints Received	6364
Number of Arrests	111
Number of Convictions	90

	<u>2001</u>	<u>2002</u>
Criminal Restitution Ordered	\$944,044.31	\$1,194,108.90
Civil Restitution Ordered	\$ .00	\$62,870.91
Criminal Fines Imposed	\$362,777.58	\$149,800.00
Investigation Costs Awarded	\$80,000.00	\$655,000.00
Restitution Amounts Identified to Medicaid for Collection	\$ .00	\$554,185.83
Out-of-Court Settlements	\$905,997.74	\$1,591,634.16
<b>TOTAL</b>	<b>\$2,292,819.63</b>	<b>\$4,207,599.80</b>

Health Professionals Division

Howard C. Marderosian, Assistant in Charge

The Health Professionals Division represents the Department of Consumer and Industry Services, Bureau of Health Services, and health professional regulatory boards in enforcing the Michigan Public Health Code. The division prosecutes administrative disciplinary actions against health care professionals such as doctors, dentists, and nurses for violation of professional and ethical standards. In addition, the division is legal counsel to 18 administrative agencies that license and regulate health professionals.

Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	8	7	12	3	3	5	1
Court of Claims	2	0	2	0	0	0	0
Court of Appeals	4	5	4	5	5	7	3
Supreme Court	0	2	1	1	3	2	2
<b>Total</b>	<b>14</b>	<b>14</b>	<b>19</b>	<b>9</b>	<b>11</b>	<b>14</b>	<b>6</b>
<b>U.S. Courts</b>							
District Court	1	2	2	1	1	2	0
<b>Total</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>0</b>
<b>Admin. Actions</b>	368	349	392	325	301	327	299
<b>Other Significant Division Activity:</b>					<b>2001</b>	<b>2002</b>	
Investigative files received					166	175	
Investigative files closed					186	183	
Memoranda of advice					26	27	
Fines assessed against licensed health care professionals					\$116,825	\$164,450	
Citizen letter responses					253	20	

Highway Negligence Division

Vincent J. Leone, Assistant in Charge

The Highway Negligence Division represents the Michigan Department of Transportation (MDOT) in tort litigation where it is alleged that a highway defect contributed to injuries to persons or property. The highway defect exception to governmental immunity provides that the Department of Transportation shall "repair and maintain" "in reasonable repair" "the improved portion of the highway designed for vehicular travel." In addition to this primary function, the division brings lawsuits against persons who have damaged MDOT property.

Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	3	3	0	5	1	4
Circuit Court	10	15	20	5	17	20	2
Court of Claims	64	25	36	53	20	26	47
Court of Appeals	9	23	12	20	6	10	16
Supreme Court	0	1	1	0	4	2	2
<b>Total</b>	<b>83</b>	<b>67</b>	<b>72</b>	<b>78</b>	<b>52</b>	<b>59</b>	<b>71</b>

**U.S. Courts**

District Court	0	1	0	1	0	0	1
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>

**Monies Paid To/By the State:**

	<b>2001</b>	<b>2002</b>
All Judgments/Settlements paid TO State	\$114,230	\$1,403,479
All Judgments/Settlements paid BY State	\$823,400	\$1,024,740

**Other Significant Division Activity:**

The Highway Negligence Division has taken the responsibility for collecting monies from insurance companies or uninsured drivers who have damaged highway surfaces or appurtenances. Most often this can be done without litigation. In 2001, the amount collected without litigation was \$1,608,317.69. In 2002, the amount collected without litigation was \$466,774.00.

In addition, recent road maintenance failures have caused minor property damage to thousands of vehicles. This Division manages these claims to insure payment to drivers by insurance companies without the necessity of instituting time consuming litigation.

**Insurance and Banking Division**

E. John Blanchard, Assistant in Charge

The Insurance and Banking Division provides representation and counsel to state departments in matters involving banking, insurance, and securities. The division acts as general counsel to the Office of Financial and Insurance Services (OFIS) of the Department of Consumer and Industry Services. The Insurance & Banking Division works to enforce the Insurance Code, Patient's Right to Independent Review Act, Blue Cross Act (Nonprofit Health Care Corporation Reform Act), Banking Code of 1999, Mortgage Brokers, Lenders & Servicers Licensing Act, Consumer Financial Services Act, Uniform Securities Act, and numerous other consumer finance related laws. This includes the regulation of Blue Cross Blue Shield of Michigan, HMOs, state-chartered banks, domestic insurance companies, foreign insurance companies, state-chartered credit unions, consumer finance lenders, insurance agents, securities agents, and securities agents and broker-dealers.

The Insurance & Banking Division acts as counsel to the Commissioner of OFIS in receivership, rehabilitation, and liquidation proceedings involving insurance companies, health maintenance organizations, banks, and other regulated entities.

The Insurance & Banking Division also provides representation to the Corporation Division of the Bureau of Commercial Services within the Department of Consumer and Industry Services. The division provides services that enable corporations, limited partnerships, limited liability companies, and limited liability partnerships to be formed, and for foreign entities to obtain a certificate of authority to transact business in the state, as required by Michigan law.

The Insurance and Banking Division provides guidance and assistance in reviewing agency documents and reviews insurance companies' articles of incorporation and amendments to articles of incorporation. The division assists and advises the public in consumer-related matters involving insurance, banking, and securities issues.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	1	0	1	0	0	0	0
Circuit Court	15	20	11	24	25	27	22
Court of Claims	0	0	0	0	5	5	0
Court of Appeals	7	5	7	5	7	4	8
Supreme Court	1	5	3	3	0	2	1
<b>Total</b>	<b>24</b>	<b>30</b>	<b>22</b>	<b>32</b>	<b>37</b>	<b>38</b>	<b>31</b>
<b>U.S. Courts</b>							
District Court	1	3	1	3	1	4	0
6th Circ Ct of Appeals	0	0	0	0	1	1	0
U.S. Bankruptcy Ct.	2	0	1	1	0	0	1
<b>Total</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>5</b>	<b>1</b>
<b>Admin. Actions</b>	23	15	24	14	9	11	12

**Labor Division\***

Christine A. Derdarian, Assistant in Charge

The Labor Division provides legal advice and representation to the Michigan Department of Consumer and Industry Services, including its various bureaus, boards, and commissions, in all legal matters except those dealing with unemployment and workers' disability.

The Labor Division's efforts primarily are directed to the enforcement of the Payment of Wages and Fringe Benefits Act, 1978 PA 390, the Minimum Wage Law of 1964, 1964 PA 154; the Michigan Occupational Safety and Health Act, 1974 PA 154; and the State Construction Code Act of 1972, 1972 PA 230.

The Labor Division, as well, provides legal advice and representation to the Michigan Civil Service Commission, Michigan Department of Civil Service, and the State Personnel Director with respect to Const 1963, art 11, § 5, the Civil Service rules and regulations and other civil service matters relating to the state classified service.

On occasion, this Division represents other state agencies in Michigan courts when the agency is a named party in a challenge of a Civil Service Commission's decision regarding the employment practice of the state agency.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	379	307	191	495	432	367	560
Circuit Court	51	52	44	59	56	50	65
Court of Claims	4	1	4	1	2	2	1
Court of Appeals	12	13	12	13	11	11	13
Supreme Court	1	1	1	1	4	3	2
<b>Total</b>	<b>447</b>	<b>374</b>	<b>252</b>	<b>569</b>	<b>505</b>	<b>433</b>	<b>641</b>
<b>U.S. Courts</b>							
District Court	0	1	0	1	1	1	1
6th Circ Ct of Appeals	0	0	0	0	2	0	2
U.S. Bankruptcy Ct.	1	0	0	1	0	0	1
<b>Total</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>4</b>

<b>Admin. Actions</b>	160	561	434	287	496	602	181
<b>Monies Paid To/By the State:</b>				<b>2001</b>	<b>2002</b>		
All Judgments/Settlements paid TO State:				\$6,022.24	\$6,625.38		

\* Effective November 1, 2002, the Labor Division was merged with the Workers' Compensation and Unemployment Divisions. The three divisions form the Labor Division with Ray W. Cardew, Jr. as the Assistant in Charge.

### Liquor Control Division\*

Irene M. Mead, Assistant in Charge

The Liquor Control Division of the Department of Attorney General is charged with providing legal advice and representation to the Michigan Liquor Control Commission. As a general counsel division, it deals with a wide range of legal issues confronting the Commission. The division drafts violation complaints against licensees and represents the Commission at administrative violation and appeal hearings. It also represents the Commission in court when directly sued and when licensing and violation decisions are appealed beyond the administrative level. The division represents the Commission in lawsuits at all levels of state and federal courts. The division is also responsible for pursuing legal action against out-of-state alcohol sellers who ship alcohol illegally to Michigan residents.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	17	26	23	20	23	23	20
Probate Court	1	0	1	0	0	0	0
Court of Appeals	5	1	5	1	5	1	5
Supreme Court	3	0	1	2	0	2	0
<b>Total</b>	<b>26</b>	<b>27</b>	<b>30</b>	<b>23</b>	<b>28</b>	<b>26</b>	<b>25</b>
<b>U.S. Courts</b>							
District Court	3	4	4	3	1	1	3
6th Circ Ct of Appeals	2	2	1	3	0	0	3
USSC	0	0	0	0	2	1	1
U.S. Bankruptcy Ct.	3	0	1	2	5	2	5
<b>Total</b>	<b>8</b>	<b>6</b>	<b>6</b>	<b>8</b>	<b>8</b>	<b>4</b>	<b>12</b>
<b>Admin. Actions</b>	775	3453	3301	927	2595	3133	389

<b>Monies Paid To/By the State:</b>	<b>2001</b>	<b>2002</b>
Amounts paid TO State -		
(Fees/Fines from Violation Proceedings)	\$1,610,881.00	\$1,297,405.00
(Assurances of Discontinuance Penalties)	\$26,708.32	\$10,660.06
All Judgments/Settlements paid BY State	\$100.00	\$0.0

**Other Significant Division Activity:**

Notices of Intended Action filed	15	11
Assurances of Discontinuance filed	29	14

\* Effective November 1, 2002, the Liquor Control Division was merged with the Casino Control and Lottery and Racing Divisions. The three divisions form the Alcohol and Gambling Division with Eric J. Eggen as the Assistant in Charge.

**Lottery and Racing Division\***

Keith D. Roberts, Assistant in Charge

The Lottery and Racing Division acts as primary legal counsel to the Michigan Bureau of State Lottery and the Michigan Office of Racing Commissioner. The division advises and represents state agencies in matters involving the licensing and regulation of gambling activities permitted under the Horse Racing Law of 1995, the Lottery Act, and the Bingo Act. In addition, the division provides legal advice and counsel in all matters relating to the operation of class III gambling activities by federally recognized Indian tribes pursuant to the Indian Gaming Regulatory Act of 1988.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	0	0	0	1	0	1
Probate Court	1	1	1	1	0	1	0
Circuit Court	83	27	28	82	26	85	23
Court of Claims	0	2	0	2	0	2	0
Court of Appeals	3	2	2	3	1	3	1
Supreme Court	2	1	2	1	0	1	0
<b>Total</b>	<b>89</b>	<b>33</b>	<b>33</b>	<b>89</b>	<b>28</b>	<b>92</b>	<b>25</b>
<b>U.S. Courts</b>							
District Court	2	0	0	2	0	2	0
6th Circ Ct of Appeals	2	0	0	2	0	2	0
US Bankruptcy Ct.	2	0	2	0	0	0	0
<b>Total</b>	<b>6</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>4</b>	<b>0</b>
<b>Admin. Actions</b>	58	43	8	93	31	118	6

**Monies Paid To/By the State**

	2001	2002
All Judgments/Settlements paid TO State	\$5,750.00	\$112,172.00

\* Effective November 1, 2002, the Lottery and Racing Division was merged with the Liquor Control and Casino Control Divisions. The three divisions form the Alcohol and Gambling Division with Eric J. Eggen as the Assistant in Charge.

### Native American Affairs Division

R. John Wernet, Jr., Assistant in Charge

The Native American Affairs Division represents the State in Native American treaty rights negotiation and litigation. The division also assists other divisions in handling other Native American Law issues such as the extent of State jurisdiction in and around tribal lands.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Tribal Courts	0	2	1	1	1	1	1
Circuit Court	0	1	0	1	1	1	1
Court of Claims	1	0	1	0	0	0	0
Court of Appeals	1	0	1	0	0	0	0
Supreme Court	0	1	1	0	0	0	0
<b>Total</b>	<b>2</b>	<b>4</b>	<b>4</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>

#### U.S. Courts

District Court	1	1	1	1	1	1	1
6th Circ Ct of Appeals	2	0	2	0	2	0	2
USSC	1	0	1	0	1	1	0
<b>Total</b>	<b>4</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>3</b>

#### Other Significant Division Activity:

State-Tribal tax negotiations.

### Natural Resources and Environmental Quality Division\*

A. Michael Leffler, Assistant in Charge

The Natural Resources and Environmental Quality Division advises and represents the Michigan Department of Natural Resources and the Michigan Department of Environmental Quality in matters involving civil and criminal enforcement of the various state and federal environmental statutes, natural resources management, and the management of oil and other sources of energy. The division also represents the Michigan Department of Consumer and Industry Services regarding Land Division Act matters. In addition to those primary functions, the division also advises state environmental officials and boards regarding the legality of rules, permits, documents, and other administrative actions. Staff attorneys serve as legal counsel to the Natural Resources Commission, Mackinac Island State Park Commission and Waterways Commission. Additionally, staff attorneys serve as the Attorney General's representative on the Great Lakes Commission, Great Lakes Fisheries Trust, and the Federal-State Environmental Crimes Task Force.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	7	21	13	15	8	11	12
Circuit Court	274	176	180	270	174	160	284
Court of Claims	10	5	4	11	5	9	7
Court of Appeals	37	27	17	47	29	35	41
Supreme Court	9	10	10	9	10	9	10
<b>Total</b>	<b>337</b>	<b>239</b>	<b>224</b>	<b>352</b>	<b>226</b>	<b>224</b>	<b>354</b>

**U.S. Courts**

District Court	19	5	6	18	7	9	16
6th Circ Ct of Appeals	14	6	4	16	2	3	15
USSC	4	0	4	0	0	0	0
U.S. Bankruptcy Ct.	20	3	7	16	10	5	21
<b>Total</b>	<b>57</b>	<b>14</b>	<b>21</b>	<b>50</b>	<b>19</b>	<b>17</b>	<b>52</b>

<b>Admin. Actions</b>	93	56	32	117	44	33	128
<b>Client Case Referrals</b>	240	194	191	243	191	204	230

**Monies Paid To/By the State:**

		<b>2001</b>	<b>2002</b>
All Judgments/Settlements paid TO State	\$14,401,548.00	\$10,731,491.25	
All Judgments/Settlements paid BY State	\$343,090.00	\$0	

\* Effective November 1, 2002, the Natural Resources and Environmental Quality Division was merged with the Agriculture Division. The two divisions form the Environment, Natural Resources, and Agriculture Division with A. Michael Leffler as the Assistant in Charge.

**Occupational Regulation Division**

Michael A. Lockman, Assistant in Charge

The Occupational Regulation Division provides legal counsel and representation to the Department of Consumer and Industry Services in matters involving the licensing and regulation of non-health related services, occupations, and commercial enterprises. In addition, the division provides legal counsel and representation to the Homeowner Construction Lien Recovery Fund (Fund) in civil actions pertaining to residential construction lien foreclosures where claims are made against the Fund.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	3	1	2	2	0	1	1
Circuit Court	175	178	188	165	164	199	130
Court of Claims	0	0	0	0	0	0	0
Court of Appeals	14	7	4	17	3	16	4
Supreme Court	0	1	0	1	2	2	1
<b>Total</b>	<b>192</b>	<b>187</b>	<b>194</b>	<b>185</b>	<b>169</b>	<b>218</b>	<b>136</b>
<b>U.S. Courts</b>							
U.S. Bankruptcy Ct.	5	2	0	7	0	6	1
<b>Total</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>6</b>	<b>1</b>
<b>Admin. Actions</b>	27	17	29	15	68	71	12

**Other Significant Division Activity:**

The division continued to experience significant increases in litigation affecting the Construction Lien Recovery Fund at both the circuit court and appellate levels. During the biennial period, the division defended the Fund against approximately 400 claims for construction liens totaling approximately \$6,000,000. The Fund made payouts on only 70 of the claims totaling approximately \$750,000.

### Prosecuting Attorneys Appellate Service Division

Charles D. Hackney, Assistant in Charge

The Prosecuting Attorneys Appellate Service ("PAAS") provides specialized assistance to Prosecuting Attorneys in 57 of the State's smallest counties, primarily filing briefs on appeal and other pleadings on behalf of the People of the State of Michigan as appellee in appeals from felony convictions and sentences. Additionally, PAAS provides advice and counsel while cases are being investigated or tried. In instances of disqualification or other unusual circumstances, PAAS provides the same services to larger counties as well.

PAAS also maintains an Internet web site for the use of all 83 county prosecutors, consisting of a brief bank, synopses of recent case law, a bulletin board, and links to other criminal law resources.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Court of Appeals	333	203	356	180	125	155	150
Supreme Court	63	79	99	43	63	74	32
<b>Total</b>	<b>396</b>	<b>282</b>	<b>455</b>	<b>223</b>	<b>188</b>	<b>229</b>	<b>182</b>

#### Other Significant Division Activity:

##### Michigan Courts:

Court of Appeals							
Briefs	10	93	80	23	112	99	36
Other	20	81	89	12	64	76	0

##### Supreme Court:

Briefs	0	2	2	0	0	0	0
Other	7	37	32	12	5	17	0
Amicus Curiae Briefs	0	3	3	0	1	1	0

### Public Administration Division\*

Andrew Quinn, Assistant in Charge

The Public Administration Division appears in matters involving the probate of estates in which the heirs are unknown, and in guardianship and conservatorship proceedings in which the protected person has no presumptive heirs. The State Public Administrator supervises local county public administrators in the administration of decedent estates in the 83 Michigan counties. Litigation in this division involves determining the validity of questionable wills, determining heirs in estates, resisting fraudulent claims, and ensuring distributions as provided by law.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Probate Court	507	139	125	521	144	327	338
<b>Total</b>	<b>507</b>	<b>139</b>	<b>125</b>	<b>521</b>	<b>144</b>	<b>327</b>	<b>338</b>

<b>Monies Paid To/By the State:</b>	<b>2001</b>	<b>2002</b>
Amounts Escheated to the State	\$1,288,574.51	\$1,012,308.62

\* Effective November 1, 2002, the Public Administration Division was merged with the Community Health Division. The two divisions form the Community Health and Public Administration Division with Ronald J. Styka as the Assistant in Charge and Marvin L. Bromley as the State Public Administrator.

### **Public Employment and Elections Division\***

Gary P. Gordon, Assistant in Charge

The Public Employment and Elections Division advises and represents the Office of State Employer with respect to collective bargaining and other employment matters relating to the State classified civil service. The division also represents all branches of state government and state departments and agencies in employment discrimination cases.

The division also advises and represents the Secretary of State and Board of State Canvassers in all election-related matters, including the Michigan Campaign Finance Act and Lobby Registration Act. The division provides informal assistance to local officials throughout the State who are charged with election-related responsibilities.

#### **Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	0	0	0	1	1	0
Circuit Court	105	46	73	78	60	65	73
Court of Claims	11	4	11	4	5	2	7
Court of Appeals	37	31	35	33	32	32	33
Supreme Court	9	9	16	2	15	11	6
<b>Total</b>	<b>162</b>	<b>90</b>	<b>135</b>	<b>117</b>	<b>113</b>	<b>111</b>	<b>119</b>
<b>U.S. Courts</b>							
District Court	32	17	30	19	11	19	11
6th Circ Ct of Appeals	10	9	8	11	3	8	6
U.S. Supreme Ct	0	2	2	0	1	0	1
<b>Total</b>	<b>42</b>	<b>28</b>	<b>40</b>	<b>30</b>	<b>15</b>	<b>27</b>	<b>18</b>
<b>Admin. Actions</b>	<b>6</b>	<b>8</b>	<b>7</b>	<b>7</b>	<b>7</b>	<b>5</b>	<b>9</b>

<b>Monies Paid To/By the State:</b>	<b>2001</b>	<b>2002</b>
All Judgments/Settlements Paid TO the State	\$53,637	\$20,391
All Judgments/Settlements Paid BY the State	\$3,598,606	\$1,930,874

\* Effective November 1, 2002, the Public Employment and Elections Division was merged with the Tort Defense Division. The two divisions form the Public Employment, Elections, and Tort Division with Gary P. Gordon as the Assistant in Charge.

**Public Service Division**

David A. Voges, Assistant in Charge

The Public Service Division provides legal counsel and representation to the Michigan Public Service Commission (MPSC) in the Michigan circuit courts, Court of Appeals, and Supreme Court; and the federal District Court, Circuit Courts (primarily the D.C. Circuit and Sixth Circuit), and Supreme Court. The division also represents both the State of Michigan and the MPSC in proceedings before federal agencies, including the Federal Energy Regulatory Commission, Federal Communications Commission, Federal Highway Administration, and in appeals from these agencies to the federal courts. The Public Service Division also represents the MPSC staff in administrative proceedings.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	0	0	0	2	2	0
Circuit Court	1	1	2	0	5	2	3
Court of Claims	0	1	0	1	0	0	1
Court of Appeals	57	18	32	43	18	29	32
Supreme Court	9	2	9	2	12	3	11
<b>Total</b>	<b>67</b>	<b>22</b>	<b>43</b>	<b>46</b>	<b>37</b>	<b>36</b>	<b>47</b>
<b>U.S. Courts</b>							
District Court	10	5	5	10	1	5	6
6th Circ of Appeals	22	6	2	26	5	16	15
USSC	1	1	1	1	0	1	0
<b>Total</b>	<b>33</b>	<b>12</b>	<b>8</b>	<b>37</b>	<b>6</b>	<b>22</b>	<b>21</b>
<b>Admin. Actions</b>							
State	157	342	290	209	264	327	146
Federal	40	24	24	40	29	17	52
<b>Monies Paid To/By the State:</b>					<b>2001</b>	<b>2002</b>	
All Judgments/Settlements paid TO State					\$30,000	\$95,000	

**Retirement Division\***

David L. Balas, Assistant in Charge

The Retirement Division provides legal representation and advice in matters involving the State's public retirement pension systems, including the State's defined contribution plans and deferred compensation 457 and 401(k) plans.

The division is legal counsel to the Office of Retirement Services, Department of Management and Budget, which administers the State Employees' Retirement System, Public School Employees' Retirement System, Judges' Retirement System, and State Police Retirement System, and represents the individual boards for each retirement system before the state and federal courts. The division also provides legal assistance to the Legislative Retirement System.

The division reviews county pension plans under Michigan law, and is an appointed member to the County Pension Plan Review Committee. The division reviews requests from various state and county entities to modify their retirement pension plans to ensure that modifications and resolutions adopted by those entities affecting social security contributions comply with federal and state law.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	13	13	13	13	33	13	33
Court of Claims	1	1	1	1	1	2	0
Court of Appeals	6	3	3	6	10	6	10
Supreme Court	0	2	2	0	3	1	2
<b>Total</b>	<b>20</b>	<b>19</b>	<b>19</b>	<b>20</b>	<b>47</b>	<b>22</b>	<b>45</b>
<b>U.S. Courts</b>							
District Court	0	1	0	1	0	1	0
6th Circ Ct of Appeals	0	0	0	0	1	0	1
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>Admin. Actions</b>	<b>77</b>	<b>77</b>	<b>76</b>	<b>78</b>	<b>75</b>	<b>59</b>	<b>94</b>

**Other Significant Division Activity:**

During 2001-2002, the Retirement Division handled 313 written requests for legal advice or assistance involving retirement matters.

\* Effective November 1, 2002, the Retirement Division was merged with the Economic and Career Development Division. The two divisions form the Economic Development and Retirement Division with Thomas F. Schimpf as the Assistant in Charge.

**Revenue Division\***

Russell E Prins, Assistant in Charge

The Revenue Division represents all state departments in matters involving taxation. In addition to this primary function, the division acts as legal counsel to the Department of Treasury in all matters pertaining to the administration of state taxes and supervision of local taxes. It also represents all state departments in the collection of delinquent accounts outside of the Detroit metropolitan area, including bankruptcies in the Western District and in the Eastern District (Northern Division) of Michigan and in other states.

The above representation of state interests includes prosecution and defense of matters in both state and federal courts, as well as the Michigan Tax Tribunal, involving state taxes for which the State annually receives in excess of \$20.95 billion. The division also represents the State Tax Commission, which, since the Executive Organization Act of 1965, has acted as a State Board of Equalization of local property tax assessments and as the State Board of Assessors, centrally appraising and taxing railroad, telephone, and telegraph companies. Additionally, the commission administers the statutes that grant tax exemptions for industrial and commercial facilities, water and air pollution control facilities, and energy conservation devices. The total monies raised by local property taxes annually exceeds \$10 billion.

The following figures include not only substantive tax cases, but also those involved in the collection of delinquent state accounts. The pending cases that involve substantive tax issues represent claims totaling \$151,960,265.50. Additionally, sums in excess of \$9,900,000 were collected on delinquent accounts. The amount of claims for which payment is sought by the State of Michigan currently exceeds \$84,900,000.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Probate Court	42	19	11	50	22	22	50
District Court	163	260	247	176	302	305	173
Circuit Court	177	175	68	284	160	136	308
Court of Claims	323	104	50	377	55	80	352
Court of Appeals	66	32	43	55	33	16	72
Supreme Court	14	11	13	12	14	12	14
<b>Total</b>	<b>785</b>	<b>601</b>	<b>432</b>	<b>954</b>	<b>586</b>	<b>571</b>	<b>969</b>
<b>U.S. Courts</b>							
District Court	13	13	11	15	20	17	18
6th Circ Ct of Appeals	10	1	4	7	0	3	4
USSC	2	1	0	3	2	3	2
U.S. Bankruptcy Ct.	933	654	389	1198	822	634	1386
<b>Total</b>	<b>958</b>	<b>669</b>	<b>404</b>	<b>1223</b>	<b>844</b>	<b>657</b>	<b>1410</b>
<b>Out-of-State Courts</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>5</b>	<b>3</b>
<b>Admin. Actions</b>	<b>252</b>	<b>146</b>	<b>80</b>	<b>318</b>	<b>64</b>	<b>160</b>	<b>222</b>
<b>Monies Paid To/By the State:</b>				<b>2001</b>		<b>2002</b>	
All Judgments/Settlements paid TO State				\$3,780,623.15		\$6,131,438.21	

\* Effective November 1, 2002, the Revenue Division was merged with the Collections and Tax Enforcement Division. The two divisions form the Revenue and Collections Division with Russell E Prins as the Assistant in Charge.

**Social Services Division**

Robert S. Welliver, Assistant in Charge

The Social Services Division represents and acts as legal counsel for the Family Independence Agency and the several independent boards and commissions within that Agency, except for the Commission for the Blind. The legal services provided arise out of the State's statutory responsibilities in the administration of the various state and/or federal welfare programs, including the cash grant and food stamp programs. The Family Independence Agency also administers various programs concerning children and youth services, juvenile delinquency, adoption, adult and children protective services, and disability determination services.

The Social Services Division also represents and acts as legal counsel for the Department of Community Health for the Medicaid program and other state health payment programs.

The Social Services Division further represents and acts as legal counsel for the Bureau of Regulatory Services (now Bureau of Family Services) within the Department of Consumer & Industry Services. This Bureau licenses and regulates child foster care homes and organizations, adoption agencies, day care homes and institutions, and adult foster care facilities.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Probate Court	22	4	5	21	5	4	22
District Court	15	10	8	17	4	7	14
Circuit Court	308	163	109	362	157	108	411
Court of Claims	6	5	2	9	5	4	10
Court of Appeals	27	15	15	27	12	5	34
Supreme Court	8	4	5	7	5	5	7
<b>Total</b>	<b>386</b>	<b>201</b>	<b>144</b>	<b>443</b>	<b>188</b>	<b>133</b>	<b>498</b>

**U.S. Courts**

District Court	19	13	11	21	8	7	22
6th Circ Ct of Appeals	7	3	4	6	1	0	7
USSC	0	0	0	0	1	0	1
U.S. Bankruptcy Ct.	31	18	27	22	11	7	26
<b>Total</b>	<b>57</b>	<b>34</b>	<b>42</b>	<b>49</b>	<b>21</b>	<b>14</b>	<b>56</b>

**Out-of-State Courts**

State	8	2	1	9	3	3	9
Federal	1	1	1	1	1	0	2
<b>Total</b>	<b>9</b>	<b>3</b>	<b>2</b>	<b>10</b>	<b>4</b>	<b>3</b>	<b>11</b>

**Admin. Actions      163      119      77      205      145      66      284**

**Monies Paid To/By the State:**

	2001	2002
All Judgments/Settlements paid TO State	\$1,491,620.00	\$3,141,507.00
All Judgments/Settlements paid BY State	\$0	\$5,612.00

**Special Litigation Division**

J. Peter Lark, Assistant in Charge

The Special Litigation Division provides representation to the public at large, and the State of Michigan as a consumer, in utility rate proceedings before the Michigan Public Service Commission and the courts. During 2001-2002, this division appeared in all significant administrative and judicial proceedings involving the rates and services of the State's largest utilities, and in proceedings involving several smaller utilities. In addition, the division has the responsibility of representing the consumer interest in utility energy cost recovery proceedings conducted by the Public Service Commission pursuant to 1982 PA 304. The division also handles miscellaneous matters at the direction of the Attorney General.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	1	0	0	1	0	1	0
Court of Appeals	19	4	13	10	6	9	7
Supreme Court	1	0	0	1	2	0	3
Out-of-State	0	0	0	0	1	1	0
<b>Total</b>	<b>21</b>	<b>4</b>	<b>13</b>	<b>12</b>	<b>9</b>	<b>11</b>	<b>10</b>

<b>U.S. Courts</b>							
District Court	0	0	0	0	2	1	1
6th Circ Ct of Appeals	0	0	0	0	1	1	0
USSC	0	1	1	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>Admin. Actions</b>							
State51	36	29	58	37	51	44	
Federal	4	0	0	4	0	3	1
<b>Total</b>	<b>55</b>	<b>36</b>	<b>29</b>	<b>62</b>	<b>37</b>	<b>54</b>	<b>45</b>

### Special Projects Division

Stewart H. Freeman, Assistant in Charge

The Special Projects Division represents the public interest in assignments involving protection of the public health, welfare, and safety. Special Projects Division is lead counsel in disputes involving the national tobacco settlement and has responsibility for enforcement actions against sweepstakes promoters.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	3	0	3	0	0	0	0
Circuit Court	4	2	0	6	4	0	10
Court of Appeals	0	0	0	1	0	1	0
<b>Total</b>	<b>7</b>	<b>2</b>	<b>3</b>	<b>7</b>	<b>4</b>	<b>1</b>	<b>10</b>
<b>U.S. Courts</b>							
District Court	3	1	0	4	0	1	3
6th Circ Ct of Appeals	1	0	1	0	0	0	0
<b>Total</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>3</b>
<b>Admin. Actions</b>	5	1	0	6	1	1	5
<b>Out-of-State Courts</b>	0	3	0	3	2	0	5

<b>Monies Paid To/By the State:</b>	<b>2001</b>	<b>2002</b>
All Judgments/Settlements paid TO State	\$263,405,803.13	\$326,460,413.77

#### Other Significant Division Activity:

Michigan will receive \$8.1 billion in tobacco settlement payments over 25 years, indexed for inflation, and after 25 years, an estimated \$350 million, adjusted for inflation and other factors, per year in perpetuity.

During 2001-2002, as a result of enforcement against sweepstakes promoters by the Attorney General, Publishers Clearing House refunded \$1,175,000 to about 5,700 Michigan consumers, Time reimbursed \$170,982 to 238 Michigan consumers, and U.S.P.E. refunded \$780,000 to about 1,750 consumers.

### State Affairs Division

Deborah Anne Devine, Assistant in Charge

The State Affairs Division represents all state offices, departments, agencies, boards, and commissions in numerous areas including contracts, purchasing, leasing, real estate, construction, budgeting, appropriations, constitutional law, title matters, real property acquisitions, civil service, motor vehicle titling, copyrights, and other special assignments. In addition, the division advises the Executive Office, the Legislature, the Judiciary, the Departments of Information Technology, Management and Budget, Military Affairs, Natural Resources, State, State Police, Treasury, the Office of Budget, the State Administrative Board, and various other boards and commissions in the above and related areas.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Court</b>							
Probate Court	0	0	0	0	1	0	1
District Court	0	2	2	0	2	1	1
Circuit Court	32	73	73	32	62	49	45
Court of Claims	7	4	4	7	5	6	6
Court of Appeals	5	10	7	8	10	7	11
Supreme Court	1	6	4	3	3	4	2
Out of State	0	1	0	1	0	1	0
<b>Total</b>	<b>45</b>	<b>96</b>	<b>90</b>	<b>51</b>	<b>83</b>	<b>68</b>	<b>66</b>

#### U.S. Courts

District Court	2	2	4	0	0	0	0
<b>Total</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

#### Monies Paid To/By the State:

	<b>2001</b>	<b>2002</b>
All Judgments/Settlements paid TO State	\$38,138.36	\$896.87
All Judgments/Settlements paid BY State	\$106,000.00	\$2,632,887.64

#### Other Significant Division Activity:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Transactions</b>	195	549	492	252	440	421	271

**Tort Defense Division\***

Clive D. Gemmill, Assistant-in-Charge

The Tort Defense Division provides legal advice and representation, in state and federal courts, to state agencies (excluding Corrections and Transportation), and their officers and employees when sued in civil lawsuits alleging injury or property damage.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	11	5	7	9	116	38	87
Circuit Court	82	83	79	86	103	91	98
Court of Claims	38	34	44	28	41	23	46
Court of Appeals	25	22	19	28	19	18	29
Supreme Court	4	7	6	5	2	4	3
<b>Total</b>	<b>160</b>	<b>151</b>	<b>155</b>	<b>156</b>	<b>281</b>	<b>174</b>	<b>263</b>

**U.S. Courts**

District Court	47	54	44	57	45	61	41
6th Circ Ct of Appeals	20	14	14	20	26	27	19
U.S. Supreme Ct	0	0	0	0	0	0	0
<b>Total</b>	<b>67</b>	<b>68</b>	<b>58</b>	<b>77</b>	<b>71</b>	<b>88</b>	<b>60</b>

<b>Out-of-State Courts</b>	5	7	5	7	6	7	6
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**Monies Paid To/By the State:**

	<b>2001</b>	<b>2002</b>
All Judgments/Settlements Paid TO the State	\$0	\$20,371
All Judgments/Settlements Paid BY the State	\$556,500	\$2,809,120

\* Effective November 1, 2002, the Tort Defense Division was merged with the Public Employment and Elections Division. The two divisions form the Public Employment, Elections, and Tort Division with Gary P. Gordon as the Assistant in Charge.

**Transportation Division**

Patrick F. Isom, Assistant in Charge

The Transportation Division advises and represents the Michigan Department of Transportation (MDOT), Michigan State Transportation Commission, the Mackinac Bridge Authority, the International Bridge Administration, the Aeronautics Commission, and the Michigan Truck Safety Commission, each of which has constitutional and/or statutory responsibilities in an area of transportation. The division provides all needed legal representation, with the exception of highway negligence claims, claims for motorist damages to highway infrastructure, and bonding.

The MDOT constructs and maintains State trunkline highways throughout the State and administers a comprehensive transportation program involving travel by watercraft, bus, railroad car, aircraft, rapid transit vehicle, or other means of public conveyance. In addition, the MDOT administers numerous funding and grant programs under which municipalities, local transit agencies, and others carry out transportation programs. The MDOT's regulatory responsibilities include the areas of highway advertising and rail safety. This division represents the MDOT and each of its agencies in lawsuits; assists in the development, review and interpretation of con-

tracts; and advises on the interpretation of state and federal laws. The division also represents the MDOT in all its condemnation litigation combining the work of staff attorneys and support personnel with that of Special Assistant Attorneys General.

#### Division Caseload:

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	0	5	4	1	2	1	2
Circuit Court	121	31	68	84	25	46	63
Court of Claims	13	8	10	11	6	8	9
Court of Appeals	10	10	8	12	8	9	11
Supreme Court	1	3	3	1	4	2	3
<b>Total</b>	<b>145</b>	<b>57</b>	<b>93</b>	<b>109</b>	<b>45</b>	<b>66</b>	<b>88</b>
<b>U.S. Courts</b>							
District Court	1	1	2	0	3	0	3
6th Circ Ct of Appeals	1	0	0	1	0	0	1
<b>Total</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>4</b>
<b>Admin. Actions</b>	14	17	21	10	47	29	28

#### Monies Paid To/By the State:

	2001	2002
All Judgments/Settlements paid TO State	\$12,298	\$56,132
All Judgments/Settlements paid BY State	\$198,442	\$987,974

#### Other Significant Division Activity:

Contracts review:

**2001:** Approximately 1,839 contracts -- 692 construction contracts totaling approximately \$1,089,734,542; approximately 1147 contracts from Real Estate, Maintenance Division, Design, Planning, UPTRAN and Aeronautics.

**2002:** Approximately 1,823 contracts -- 789 construction contracts totaling approximately \$1,107,793,590; approximately 1034 contracts from Real Estate, Maintenance Division, Design, Planning, UPTRAN and Aeronautics.

**Unemployment Division\***

Dennis J. Grifka, Assistant in Charge

The Unemployment Division represents the Unemployment Tax and Finance Bureau before the hearing tribunals (referees and the Board of Review) established by the Michigan Employment Security Act. The division also represents both the Unemployment Benefit Services Bureau and the Tax and Finance Bureau before state and federal courts. The division brings civil actions to recover benefits improperly paid or received by claimants and civil actions to collect delinquent unemployment contributions. Finally, the division represents the Bureau in all cases in which proof of claims for delinquent taxes are filed in bankruptcy courts, probate courts, and in circuit courts.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
District Court	2,388	1390	976	2802	642	1667	1777
Circuit Court	511	189	174	526	201	536	191
Court of Appeals	12	11	11	12	11	17	6
Supreme Court	3	0	1	2	4	6	0
<b>Total</b>	<b>2914</b>	<b>1590</b>	<b>1162</b>	<b>3342</b>	<b>858</b>	<b>2226</b>	<b>1974</b>
<b>U.S. Courts</b>							
District Court	2	0	1	1	0	1	0
6th Circ Ct of Appeals	2	0	2	0	2	1	1
U.S. Bankruptcy Ct.	1330	121	676	775	104	553	326
<b>Total</b>	<b>1334</b>	<b>121</b>	<b>679</b>	<b>776</b>	<b>106</b>	<b>555</b>	<b>327</b>
<b>Admin. Actions</b>	127	66	71	122	80	97	105

**Other Significant Division Activity:**

Collections effected:	<b>2001</b>	<b>2002</b>
Unemployment Taxes	\$1,473,356.94	\$2,049,422.47
Restitution	\$548,660.02	\$568,588.51
<b>Total</b>	<b>\$2,022,016.96</b>	<b>\$2,618,010.98</b>

\* Effective November 1, 2002, the Unemployment Division was merged with the Workers' Compensation and Labor Divisions. The three divisions form the Labor Division with Ray W. Cardew, Jr. as the Assistant in Charge.

**Worker's Compensation Division\***

Ray W. Cardew, Jr., Assistant in Charge

The Worker's Compensation Division provides representation to all state departments in matters involving the administration of the state's Worker's Disability Compensation Act of 1969, as amended. In addition, the Division also enforces compliance with the state's Worker's Disability Compensation Act of 1969 on behalf of the Bureau of Workers' & Unemployment Compensation. The Division's responsibilities also include the representation of various state workers' compensation funds created by the Legislature: Compensation Supplement Fund, Medical Benefits Fund, Second Injury Fund, Self-Insurers' Security Fund, and the Silicosis, Dust Disease, and Logging Industry Compensation Fund.

**Division Caseload:**

	Pending 12/31/00	Opened 2001	Closed 2001	Pending 12/31/01	Opened 2002	Closed 2002	Pending 12/31/02
<b>Michigan Courts</b>							
Circuit Court	49	108	99	58	109	133	34
Court of Claims	1	0	0	1	0	0	1
Court of Appeals	30	31	43	18	13	17	14
Supreme Court	26	30	36	20	6	17	9
Probate	0	3	1	2	0	2	0
<b>Total</b>	<b>106</b>	<b>172</b>	<b>179</b>	<b>99</b>	<b>128</b>	<b>169</b>	<b>58</b>

**U.S. Courts**

District Court	1	4	0	5	2	2	5
U.S. Bankruptcy Ct.	5	6	3	8	2	2	8
<b>Total</b>	<b>6</b>	<b>10</b>	<b>3</b>	<b>13</b>	<b>4</b>	<b>4</b>	<b>13</b>

**Admin. Actions**

Board of Magistrates	906	875	881	900	1030	843	1087
Bureau of Workers & Unemployment Comp	9	4	11	2	1	1	2
Workers' Compensation Appellate Commission	37	50	50	37	42	47	32
<b>Total</b>	<b>952</b>	<b>929</b>	<b>942</b>	<b>939</b>	<b>1073</b>	<b>891</b>	<b>1121</b>

<b>Out-of-State Courts</b>	0	9	3	6	6	1	11
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**Monies Paid To/By the State:**

	<b>2001</b>	<b>2002</b>
Fines/penalties paid TO State (Workers' Comp. Administrative Revolving Fund)	\$170,294.05	\$248,318.03
Monies paid TO State (Self-Insurers' Security Fund)	\$259,095.86	\$1,172,000.00

**Other Significant Division Activity:**

Citizen Letters	50	59
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\* Effective November 1, 2002, the Workers' Compensation Division was merged with the Unemployment and Labor Divisions. The three divisions form the Labor Division with Ray W. Cardew, Jr. as the Assistant in Charge.

**REPORT OF PROSECUTIONS****Casino Control Division - Prosecutions 2001 - 2002**

PEOPLE v JEROME KENNEDY ALEXANDER, Wayne Circuit, 08/22/2002; judgment; defendant pled guilty to attempt drawing on insufficient funds. Sentenced to 2 years probation, \$120/year in supervision fees, \$165/year court costs, and a \$60 Crime Victims fee.

PEOPLE v LAWRENCE ALLEN, Wayne Circuit, 02/07/2002; judgment; defendant pled guilty to disorderly conduct. Sentenced to 60 days in the Wayne County Jail or a \$500 fine.

PEOPLE v LATOYA ANDERSON, Wayne Circuit, 08/15/2002; judgment; defendant pled guilty to attempt embezzlement over \$1,000. Sentenced to 1 year probation, \$1,315 in restitution, a \$60 Crime Victims fee, and \$165 court costs and fines.

PEOPLE v MARVIN LEE CORTEZ ANSLEY, 36th District Court, 11/15/2001; judgment; defendant pled guilty to disorderly conduct. The Court imposed \$200 in fines and \$200 in costs.

PEOPLE v DANITA ANTWINE, Wayne Circuit, 08/09/2002; judgment; defendant plead guilty to attempt possession of another's financial transaction device. Sentenced to 1 year probation and \$500 in costs.

PEOPLE v DAVID TYRONE APPLING, Wayne Circuit, 04/01/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 93 days jail.

PEOPLE v POLLEEN LESA ARAFAT, 36th District Court, 10/22/2002. The defendant was charged with assisting an underage person to gamble. Bench verdict-acquittal.

PEOPLE v TODD MAXEY AUGUST, Wayne Circuit, 06/10/2002; judgment; defendant pled guilty to attempt acceptance of a payment for the purpose of altering the outcome of a gambling game. Sentenced to 2 years probation, \$164 court costs, and a \$60 Crime Victims fee.

PEOPLE v ALEJANDRO RAUL-EMILIO BACON, Wayne Circuit, 07/08/2002; judgment; defendant pled guilty to embezzlement. Sentenced to 4 years probation, \$20,534 in restitution, and \$1,200 in court costs.

PEOPLE v SUSAN ALITA BANOSKI, Wayne Circuit, 03/20/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 1-14 years in prison.

PEOPLE v NAFA SALEEM BARASH, 36th District Court, 12/19/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 6 months probation and a \$250 fine.

PEOPLE v JAMES DAVID BARNETT, 36th District Court, 04/27/2001; judgment; defendant pled guilty to embezzlement less than \$200. Sentenced to 1 year probation, \$100 in restitution, and \$200 in court costs.

PEOPLE v ELAINE BASS, Wayne Circuit, 08/07/2001; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 2 years probation, a \$60 Crime Victims fee, \$240 in supervision fees, and \$330 in court costs.

PEOPLE v JIHAD M BAZZI, Wayne Circuit, 07/26/2001; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 2 years probation, \$330 court costs, \$100 fine, 6 months on tether, and 50 hours community service.

PEOPLE v MARYANNA KAMEL BAZZI, 36th District Court, 10/18/2002;

judgment; defendant pled guilty to underage gambling. The Court imposed \$100 in costs.

PEOPLE v MIRVAT KAMEL BAZZI, Wayne Circuit, 10/10/2002; judgment; defendant pled guilty to disorderly person. The Court imposed \$500 court costs or 60 days in the Wayne County Jail.

PEOPLE v ROESHAN MAURICE BENTLEY, Wayne Circuit, 11/29/2001; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 2 years probation, a \$60 Crime Victims fee, \$120 in supervision fees, and \$165 court costs and fees.

PEOPLE v ANTHONY BERISIC, 36th District Court, 08/10/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation and \$100 in costs.

PEOPLE v JENNIFER LYNN BERTRAND, Wayne Circuit, 11/25/2002; defendant was charged with embezzlement. Bench verdict --acquittal.

PEOPLE v KALVEN NAJIB BITTI, 36th District Court, 11/29/2001; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year probation and directed to stay out of casinos.

PEOPLE v AMANDA LYNN BITTINGER, 36th District Court, 01/24/2001; judgment; defendant pled guilty to underage gambling. Sentence taken under advisement.

PEOPLE v BRANDON MAURICE BLACK, Wayne Circuit, 09/30/2002; judgment; defendant pled guilty to attempt obtaining money under false pretenses. Sentenced to 2 years probation, \$330 court costs, and \$1,280 in restitution.

PEOPLE v DARRELL LAMONT BOUNDS, 36th District Court, 05/28/2002; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year non-reporting probation, a \$100 fine, \$200 court costs, and a \$60 Crime Victims fee.

PEOPLE v BRICKIE RICHARD BOWMAN, 36th District Court, 09/12/2002; judgment; defendant pled guilty to attempt obtaining money under false pretenses. Sentenced to 18 months probation, an assessed Crime Victims fee, \$180 in supervision fees, \$320 in attorney fees, \$600 court costs, and \$1,077 in restitution.

PEOPLE v SENECA DEON BROOKINS, Wayne Circuit, 03/29/2002; judgment; defendant pled guilty to obtaining money under false pretenses. Sentenced to 6 months to 5 years to run concurrently with an unrelated conviction.

PEOPLE v ALFRED LORENZO BROOKS, 36th District Court, 11/27/2002; defendant pled guilty to disorderly person. Sentenced to 6 months non-reporting probation and \$200 in fines and costs.

PEOPLE v MARSHALL BROWN, Wayne Circuit, 11/20/2001; judgment; defendant pled guilty to uttering and publishing and possession of counterfeit notes with intent to utter and publish. Sentenced to 2 years probation, a \$240 supervision fee, and attorney fees.

PEOPLE v ROMELL ANTHONY BROWN, 36th District Court, 03/15/2002; judgment; defendant pled guilty to 2nd degree retail fraud. Sentenced to 60 days in jail.

PEOPLE v EUGENE V BURTON, Wayne Circuit, 07/26/2001; judgment; defendant pled guilty to casino cheating. Sentenced to 3 years probation and \$495 in court costs.

PEOPLE v DAVID MOSES CHAHINE, 36th District Court, 11/29/2001; judgment; defendant pled guilty to larceny less than \$200. The Court imposed \$300 in fines and costs.

PEOPLE v BERSHAWN DENISE CHAMBERS, 36th District Court, 10/26/2001; judgment; defendant pled guilty to a larceny less than \$200. Sentenced to 30 days in the Wayne County Jail.

PEOPLE v AHMAD OMAR CHBIB, Wayne Circuit, 10/21/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 18 months probation, 100 hours of community service, \$1,695 in restitution, and \$450 in court costs.

PEOPLE v MEI FENG CHEN, 36th District Court, 01/24/2001; judgment; defendant pled guilty to underage gambling. Sentence taken under advisement.

PEOPLE v CHIN MING CHIANG, Wayne Circuit, 01/12/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation and \$165 costs.

PEOPLE v STANLEY CLARK, 36th District Court, 07/26/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 6 months probation and a \$200 fine.

PEOPLE v STEVEN LAWRENCE CLARK, Wayne Circuit, 11/07/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 2 years probation, 20 days alternative work force, \$240 supervision fees, \$600 court costs, and \$800 attorney fees.

PEOPLE v STEVEN LAWRENCE CLARK, Wayne Circuit, 02/25/2002; judgment. This defendant was charged with two uttering and publishing offenses. He entered a plea to uttering and publishing in exchange for dismissal of the other complaint. Sentenced to 2 years probation, 20 days alternative work force, \$240 supervision fees, \$600 court costs, and \$800 attorney fees.

PEOPLE v GABRIEL EMIL COHUT, 36th District Court, 06/11/2002; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year probation and \$150 in fines and costs.

PEOPLE v STEVEN PIERRE COTTON, 36th District Court, 10/11/2002; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year probation, \$200 in fines, \$200 costs, a \$50 Crime Victims fee, and \$300 in supervision fees.

PEOPLE v DOUGLAS M. COWLES, 36th District Court, 05/15/2002; judgment; defendant pled guilty to larceny less than \$200. The Court imposed a \$300 fine and ordered to pay \$50 in restitution.

PEOPLE v JOHN CHRISTOPHER CUMMINGS, 36th District Court, 04/15/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 2 years probation, a \$60 Crime Victims fee, and \$100 in court costs.

PEOPLE v THOMAS CUNNINGHAM III, Wayne Circuit, 07/18/2002; judgment; defendant pled guilty to obtaining money under false pretenses over \$20,000. The Court ordered \$51,144 in restitution, a \$60 Crime Victims fee, \$497 court costs, and a probation oversight fee of \$10-\$16 per month.

PEOPLE v KHALY DANG, 36th District Court, 07/27/2001; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year probation.

PEOPLE v ANTONIO EUGENE DAVIS, Wayne Circuit, 05/31/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 6 months to 5 years in prison.

PEOPLE v JORGE J. DELATRINIDAD, 36th District Court, 01/24/2001; judgment; defendant pled guilty to underage gambling. Sentence taken under advisement, but the Court ordered a \$1,000 fine.

PEOPLE v EARL DICRISTOFARO, Wayne Circuit, 04/30/2002; judgment;

defendant pled guilty to attempt uttering and publishing. Sentenced to 2 years probation, \$285 in fines and costs, or 50 hours of community service.

PEOPLE v PAUL ANTHONY DOBER, 36th District Court, 09/17/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 9 months supervised probation; 80 hours of community service, \$225 in probation administration fees, a \$75 Crime Victims fees, and fined \$200.

PEOPLE v CHAMNIAN DOUANGLEE, Wayne Circuit, 07/25/2002; judgment; defendant pled guilty to cheating with marked cards. Sentenced to 2 years probation, \$30,000 in restitution, a \$10/month supervision fee, and \$165 court costs.

PEOPLE v MICHAEL JOSEPH DOYLE, 36th District Court, 05/30/2002; judgment; defendant pled guilty to disorderly person. Sentenced to 6 months probation and \$100 in costs.

PEOPLE v MARK DRESHAJ, Wayne Circuit, 04/15/2002; judgment; defendant pled to conspiracy and illegal collection of losing or tie wagers. Sentenced to 2 years probation, 50 hours of community service, \$6,203 in restitution, a \$60 Crime Victims fee, a \$240 supervision fee, and \$330 in court costs.

PEOPLE v JOSEPH MICHAEL DUCATO, 36th District Court, 02/12/2002; judgment; defendant pled guilty to disorderly person. Sentenced to 1 year probation, \$1,088 in restitution, \$300 in fines, \$200 court costs, and fees for Crime Victims Fund and probation oversight.

PEOPLE v CHINMOY DUTTA, 36th District Court, 10/31/2002; judgment; defendant pled guilty to the trespass by a disassociated person. Sentenced to 1 year probation and \$200 in fines and costs.

PEOPLE v HELEN DOLLENE EALY, Wayne Circuit, 09/12/2001; judgment; defendant pled guilty to attempt using a device to alter the outcome of a gambling game. Sentenced to 18 months probation, a \$60 Crime Victims fee, a \$180 supervision fee, assessed attorney fees, \$247.50 in court costs.

PEOPLE v CHARLES HENRY ESTES, Wayne Circuit, 02/28/2002; judgment; defendant pled guilty to uttering and publishing. Sentenced to 2 years probation, a \$60 Crime Victims fee, and a \$30/month supervision fee.

PEOPLE v EDWARD ALAN EUBANKS, Wayne Circuit, 02/08/2002; judgment; defendant pled guilty to attempt casino cheating. Sentenced to not less than 1 year and not more than 5 years in prison. Defendant banned from the casinos for life.

PEOPLE v ALHAGIE YAHYA FAAL, Wayne Circuit, 07/11/2001; judgment; defendant pled guilty to larceny over \$1,000. Sentenced to 1 year probation, \$200 in restitution, a \$60 Crime Victims fee, and a \$120 supervision fee.

PEOPLE v ADHAM MABU FARHA, Wayne Circuit, 11/25/2002; judgment; defendant pled guilty to attempted casino cheating. Sentenced to 2 years probation and fined \$5,000.

PEOPLE v CHRISTINA MARIE FERNANDEZ, Wayne Circuit, 09/30/2002; judgment; defendant pled guilty to attempt obtaining money under false pretenses. Sentenced to 18 months probation, serve 50 hours of community service, \$6,545 in restitution, and \$297 in court costs.

PEOPLE v RENEE FIELD, Wayne Circuit, 07/31/2001; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 3 years probation.

PEOPLE v JOSEFA FLORES, Wayne Circuit, 06/10/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 1 year probation and \$165 in court costs.

PEOPLE v ROSEMARY ILENE FLORES, Wayne Circuit, 04/29/2002; judgment; defendant pled guilty to uttering and publishing. Sentenced to 3 years probation,

\$2,000 in restitution, and pay fines and costs at \$10/month for the period of her probation.

PEOPLE v DAMARR ANTON FOSTER, Wayne Circuit, 08/09/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 18 months probation and supervision costs of \$165 per year.

PEOPLE v MARY LOUISE FRASIER, 36th District Court, 08/30/2002; judgment; defendant pled guilty to the misdemeanor embezzlement. Sentenced to 1 year probation, \$600 in restitution and \$100 in fines and costs.

PEOPLE v JOSEPHINE GARRETT, Wayne Circuit, 12/20/2002; judgment; defendant pled guilty to attempt utilization of a device to enter a slot machine. Sentenced to 1 year probation, \$100 in costs, and a \$60 Crime Victims fee.

PEOPLE v RUTH ELIZABETH GIANNOTTA, 36th District Court, 05/31/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation, \$531 in restitution, and \$100 in court costs.

PEOPLE v SEAN PATRICK GILMARTIN, 36th District Court, 05/30/2002; judgment; defendant pled guilty to disorderly person. Sentenced to 6 months probation and \$100 in costs.

PEOPLE v CLARENCE JEROME GLOVER, 36th District Court, 05/23/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to \$80 in restitution and \$200 in costs.

PEOPLE v MARYANN CATHERINE GONZALEZ, Wayne Circuit, 06/24/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 1 year probation.

PEOPLE v MARY L. GRAY, Wayne Circuit, 09/30/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 5 months in the Wayne County Jail to be suspended upon extradition by the State of Illinois.

PEOPLE v MARK ANTHONY GREATHOUSE, Wayne Circuit, 11/15/2001; judgment; defendant pled guilty to casino cheating and escape. Sentenced to 8 months on the cheating offense, 17 months to 4 years on the escape offense.

PEOPLE v JOSEPH LOUIS GRIFFIETH, Wayne Circuit, 09/30/2002; judgment; defendant pled guilty to attempt embezzlement. Sentenced to 3 years probation, 75 hours of community service, \$495 court costs, and a \$60 Crime Victims fee.

PEOPLE v WILFRED GRIFFITH, Wayne Circuit, 08/27/2002; defendant was charged with felony tampering with a slot machine. Jury verdict-acquittal.

PEOPLE v CHRISTOPHER ALAN HACKMAN, 36th District Court, 08/17/2001; judgment; defendant pled guilty to larceny under \$200. Sentenced to 1 year probation, \$250 fine, and a \$50 Crime Victims fee.

PEOPLE v TITUS LUTHER HARRIS, Wayne Circuit, 08/09/2002; judgment; defendant pled guilty to tampering with a slot machine and conspiracy to violate state gambling laws. Sentenced to 1 year probation, \$720 in supervision fees, \$165 court costs, and a \$700 fine.

PEOPLE v TAISHA RENEE HASSAN, Wayne Circuit, 11/26/2002; judgment; defendant pled guilty to attempt embezzlement. Sentenced to \$1,000 in restitution, 1 year probation, a \$50 Crime Victims fee, \$120 supervision fees, \$165 court costs, and payment of attorney fees.

PEOPLE v TIMOTHY R. HEPFINGER, Wayne Circuit, 01/17/2002; judgment; defendant pled guilty to criminal trespass. Sentenced to 6 months non-reporting probation, a \$50 fine, and 100 hours of community service.

PEOPLE v ALA HIJAZIN, 36th District Court, 05/16/2001; judgment; defendant

pled guilty to larceny less than \$200. Sentenced to 1 year probation, \$280 in restitution, and fined \$250.

PEOPLE v ROBERT ANTHONY HILL, Wayne Circuit, 08/17/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation, \$165 court costs, and \$100 in restitution.

PEOPLE v MARK STEVEN HOWES, 36th District Court, 05/15/2002; judgment; defendant pled guilty to larceny less than \$200. The Court imposed a \$300 fine.

PEOPLE v STEVEN CLARK HUMES, Wayne Circuit, 06/13/2002; judgment; defendant pled guilty to larceny less than \$200. The Court imposed a fine of \$500.

PEOPLE v MANG INPADITH, Wayne Circuit, 08/13/2002; judgment; defendant pled guilty to 2 counts of cheating by using pre-marked playing cards. Sentenced to 3 years probation, \$32,645 in restitution, a \$60 Crime Victims fee, \$120 supervision fees, and \$165 in fines and costs.

PEOPLE v LJEKA IVANOVIC, 36th District Court, 02/21/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to \$250 in costs and fines.

PEOPLE v DWAIN EDWARD JACKSON, Wayne Circuit, 01/24/2001; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 1 year probation and \$165 in costs and fees.

PEOPLE v RAYSHAWN LAMAR JACKSON, 36th District Court, 09/04/2002; judgment; defendant pled guilty to malicious destruction of property. Sentenced to 1 year probation, \$85 in restitution, \$200 in fines and costs, and \$25 in attorney fees.

PEOPLE v STACIA JOY JACKSON, 36th District Court, 08/17/2001; judgment; defendant pled guilty to embezzlement over \$200, but less than \$1,000. Sentenced to 1 year probation, a \$1,000 fine, and banned from casinos for 4 years.

PEOPLE v ROBERT SHAWN JAMES, Wayne Circuit, 09/24/2002; judgment; defendant pled guilty to attempt conspiracy. Sentenced to 2 years probation, \$1,775 in restitution, and \$1,600 in supervision fees.

PEOPLE v JIMMIE LEE JENKINS, Wayne Circuit, 05/30/2002; judgment; defendant pled guilty to a non-sufficient funds check in excess of \$500. Sentenced to 2 years probation, \$700 in restitution, and banned from all 3 Detroit casinos for 2 years.

PEOPLE v KEITH JOHNSON, Wayne Circuit, 10/30/2002; judgment; defendant pled guilty to attempted embezzlement over \$1,000 less than \$20,000. Sentenced to 3 years probation, 75 hours of community service, \$5,005 in restitution, \$180 in court costs, and a \$60 Crime Victims fee.

PEOPLE v LILLIE FORSTINE JOHNSON a/k/a JACKIE BELAND MOSBY, Wayne Circuit, 08/17/2001; judgment; defendant pled guilty to uttering and publishing. Sentenced to 3 years probation, confinement for 1 year, and \$2,000 in restitution.

PEOPLE v MELTON JOHNSON, Wayne Circuit, 08/02/2001; judgment; defendant pled guilty to casino cheating. Sentenced to 1 year probation and \$600 in costs.

PEOPLE v LEE JONES JR., Wayne Circuit, 05/06/2002; judgment; defendant pled guilty to uttering and publishing. Sentenced to 1-14 years in prison.

PEOPLE v SABINA KARCZYMARKCZYK, Wayne Circuit, 11/15/2001; judgment; defendant pled guilty to disturbing the peace. Sentenced to 30 days or pay \$400.

PEOPLE v ATHEER YOUNAN KHOSHABA, Wayne Circuit, 10/08/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 6 months probation, 30 hours community service, and \$82.50 court costs.

PEOPLE v ARON KWON, 36th District Court, 08/17/2001; judgment; defendant pled guilty to larceny under \$200. Sentenced to 1 year probation and Court imposed a \$100 fine.

PEOPLE v DONG V. LE, Wayne Circuit, 01/08/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation and \$165 in supervision and oversight fees.

PEOPLE v CHERONNE LEE, Wayne Circuit, 11/15/2002; judgment; defendant pled guilty to attempt larceny. Sentenced to 59 days in jail, 1 year reporting probation, \$120 supervision fees, and \$165 in court costs.

PEOPLE v DANIEL GREGORY LEE, 36th District Court, 08/20/2001; judgment; defendant pled guilty to larceny under \$200. The Court imposed a \$500 fine.

PEOPLE v GUANG Z LI, Wayne Circuit, 09/10/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to \$500 in costs.

PEOPLE v SHEILA JAYNE LOWE, Wayne Circuit, 11/19/2001; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 4 months to 5 years in prison.

PEOPLE v KATRINA MICHELE MANCILL, Wayne Circuit, 08/21/2001; judgment; defendant pled guilty to larceny less than \$1,000. Sentenced to 18 months probation, supervision fees of \$165/year, attorney fees, and \$500 in restitution.

PEOPLE v GEORGE MAPP, Wayne Circuit, 10/23/2002; judgment; defendant pled guilty to attempt possession of a financial transaction device of another with intent to use. Sentenced to 2 years in prison.

PEOPLE v RAENA MARIE MARCIL, 36th District Court, 05/24/2002; judgment; defendant pled guilty to underage gambling. Sentenced to \$200 in fines and costs and 6 months non-reporting probation.

PEOPLE v ROBIN ARDELL MARTIN, Wayne Circuit, 05/30/2002; judgment; defendant pled guilty to attempt embezzlement. Sentenced to 18 months probation, a \$180 supervision fee, and 150 hours of community service.

PEOPLE v JONATHAN MEADOWS, Wayne Circuit, 12/20/2002; judgment; defendant pled guilty to larceny less than \$200. The Court imposed a \$500 fine.

PEOPLE v VELI META, Wayne Circuit, 10/28/2002; judgment; defendant pled guilty to illegal collection of losing or tie wagers. Sentenced to 18 months probation, \$800 in restitution, \$165 court costs, and \$1,430 in supervision fees.

PEOPLE v WAEL KHEIRI MOKHLES, Wayne Circuit, 10/10/2002; judgment; defendant pled guilty to disorderly person. Sentenced to \$250 in court costs.

PEOPLE v SABAH JIRIS MONSOUR, 36th District Court, 05/08/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation and fined \$500.

PEOPLE v PHILLIP NAZAIR MOORADIAN, 36th District Court, 02/07/2002; judgment; defendant pled guilty to trespass by a disassociated person. Sentenced to 1 year probation and a \$50 fine.

PEOPLE v CHESTER KEITH MORRIS, Wayne Circuit, 07/11/2001; judgment; defendant pled to attempt uttering and publishing. Sentenced to 50 hours of community service, a \$60 Crime Victims fee, \$120 in oversight fees, and \$165 court costs.

PEOPLE v MICHAEL GEORGE MURPHY, 36th District Court, 04/16/2002; judgment; defendant pled guilty to disorderly person. Sentenced to \$150 court costs.

PEOPLE v JOHN DOUGLAS NECELIS, 36th District Court, 08/15/2002;

judgment; defendant pled guilty to the larceny less than \$200. Sentenced to 1 year probation, a \$100 fine, \$25 court costs, and a \$50 Crime Victims fee.

PEOPLE v SUSAN MARIE ODOM, 36th District Court, 07/10/2001; judgment; defendant pled guilty to disorderly person. The Court imposed a \$200 fine.

PEOPLE v XAN TERMERA PARKER, Wayne Circuit, 07/23/2002; judgment; defendant pled guilty to 2 counts of uttering and publishing. Sentenced to 3 years probation and \$4,000 in restitution.

PEOPLE v RODGER WILLIAM PATRAW, Wayne Circuit, 05/07/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year non-reporting probation, a \$60 Crime Victims fee, \$165 court costs, a \$240 supervision fee, and \$1,827 in restitution.

PEOPLE v MARY ALISA PATTERSON, Wayne Circuit, 04/18/2002; judgment; defendant pled guilty to attempt larceny in a building. Sentenced to 1 year probation, 100 hours community service, \$120 supervision fees, a \$60 Crime Victims fee, and \$165 in court costs.

PEOPLE v CHRISTOPHER ALVIN PENN, Wayne Circuit, 05/30/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 2 years probation and 50 hours community service.

PEOPLE v JOSEF LARRY PENN, 36th District Court, 01/08/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 6 months probation.

PEOPLE v WALTER DWIGHT PENN, Wayne Circuit, 06/06/2001; judgment; defendant pled guilty to criminal trespass. The Court imposed a \$50 fine and \$235 in restitution.

PEOPLE v CRYSTAL PERRY, Wayne Circuit, 08/10/2001; judgment; defendant pled guilty to attempt embezzlement less than \$20,000. Sentenced to 1 year probation, \$300 in restitution, and \$165 in supervision fees.

PEOPLE v MARY ANN PICKARSKI, 36th District Court, 07/15/2002; judgment; defendant pled guilty to trespass by a disassociated person. Sentenced to 1 year probation, \$1,200 in restitution, and \$250 in fines and costs.

PEOPLE v JAMES ANTHONY PRINGLE, 36th District Court, 04/10/2001; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 2 years probation and fined \$250.

PEOPLE v TIFFANY DEANN RATLIFF, 36th District Court, 05/08/2001; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year probation and a \$500 fine.

PEOPLE v NAOMI REED, 36th District Court, 05/01/2001; judgment; defendant pled guilty to embezzlement less than \$1,000. Sentenced to 1 year probation, \$897 in restitution, and \$100 in court costs.

PEOPLE v NASIR RIAZ, 36th District Court, 05/29/2001; judgment; defendant pled guilty to larceny less than \$200. Court imposed a \$200 fine.

PEOPLE v TIMOTHY ROBINSON, Wayne Circuit, 09/12/2002; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 1 year probation, \$500 in restitution, a \$60 Crime Victims fee, \$120 in supervision fees, \$165 court costs, and attorney fees.

PEOPLE v DEBRA JEAN ROSS, 36th District Court, 01/24/2001; judgment; defendant pled guilty to assisting an underage gambler. The Court imposed a \$1,000 fine.

PEOPLE v DARRYL RUFFIN, Wayne Circuit, 12/05/2002; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 1 year probation, \$120 in

supervision fees, \$120 in court costs, a \$60 Crime Victims fee, \$60 for Drug and Alcohol testing, and a \$1,280 fine.

PEOPLE v LOUIS KELLY RYAN, 36th District Court, 09/30/2002; judgment; defendant pled guilty to malicious destruction of property. Sentenced to \$100 in court costs and \$1,500 in restitution.

PEOPLE v SAM JOE SALAMEH, 36th District Court, 11/07/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 6 months probation, \$200 in restitution, \$160 court costs, a \$60 Crime Victims fee, and a \$200 supervision fee.

PEOPLE v ANNETTE EVONNE SARGENT, Wayne Circuit, 04/18/2002; judgment; defendant pled guilty to attempt embezzlement. Sentenced to 18 months probation, \$1,000 in restitution, \$150 cost costs, and a \$60 Crime Victims fee.

PEOPLE v RAFAT RAZUK SAWA, 36th District Court, 05/31/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to \$100 in fines and costs.

PEOPLE v DONALD MORRIS SIMMONS, Wayne Circuit, 08/17/2001; judgment; defendant pled guilty to uttering and publishing. Sentenced to 4 months to 14 years in prison.

PEOPLE v TERENCE CHARLES SMITH, Wayne Circuit, 11/29/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 6 months non-reporting probation and 100 hours of community service.

PEOPLE v FADEL HUSSEIN TAHA, Wayne Circuit, 09/30/2002; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 2 years probation, 100 hours community service, \$2,348 supervision fees, and \$227.50 in costs.

PEOPLE v MERLE GUILLERMO TANDOC, Wayne Circuit, 08/20/2001; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 1 year probation and a \$60 Crime Victims fee.

PEOPLE v DASHAWN MONIQUE TAYLOR, Wayne Circuit, 07/01/2002; judgment; defendant pled guilty to larceny less than \$1,000. Sentenced to 6 months probation, \$140 in restitution, \$82.50 court costs, \$50.00 in fees, and a \$60 Crime Victims fee.

PEOPLE v ANDRE THOMAS, Wayne Circuit, 12/12/2001; judgment; defendant pled guilty to casino cheating. Sentenced to 6 months to 1 year of imprisonment.

PEOPLE v REGINALD OTIS THOMPSON, Wayne Circuit, 11/05/2002; judgment; defendant pled guilty to uttering and publishing. Sentenced to 2 years probation, a \$60 Crime Victims fee, \$480 in supervision fees, \$600 court costs, and \$600 in attorney fees.

PEOPLE v CHRISTINA LYNN TURNER, 36th District Court, 05/30/2002; judgment; defendant pled guilty to disorderly person. Sentenced to 6 months probation and \$100 in costs.

PEOPLE v LENNIE SHARUN TURNER, 36th District Court, 10/23/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 3 days in the Wayne County Jail.

PEOPLE v WILLIAM B. TURNER, 36th District Court, 08/20/2001; judgment; defendant pled guilty to larceny under \$200. Sentenced to 9 months probation, \$175 in costs, and a \$50 Crime Victims fee.

PEOPLE v MARK ANTHONY VIAL, Wayne Circuit, 07/03/2002; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 2 years probation, \$100 per year in costs, and a \$60 Crime Victims fee.

PEOPLE v ALBERT LEWIS WALKER, Wayne Circuit, 11/05/2002; judgment;

defendant pled guilty to attempt uttering and publishing. Sentenced to 6 months to 30 months in prison.

PEOPLE v SHAMEKA DENEVA WALKER, Wayne Circuit, 06/25/2002; judgment; defendant pled guilty to disorderly person. Sentenced to 1 year non-reporting probation, \$165 in court costs, and 75 hours of community service and \$1,500 in restitution.

PEOPLE v STACY ALLISON WARD, 36th District Court, 05/29/2002; judgment; defendant pled guilty to disorderly person. Sentenced to 6 months probation and \$100 in fines and costs.

PEOPLE v ROY KENNETH WEBSTER, Wayne Circuit, 09/18/2002; judgment; defendant pled guilty to attempt uttering and publishing. Sentenced to 2 years probation, a \$60 Crime Victims fee, and \$165 in supervision fees.

PEOPLE v JAMES CHRISTOPHER WHEELER, Wayne Circuit, 11/29/2001; judgment; defendant pled guilty to attempt casino cheating. Sentenced to 2 years probation, a \$60 Crime Victims fee, \$120 in supervision fees, \$165 court costs, and attorney fees.

PEOPLE v MAURICE A. WHITE, 36th District Court, 11/21/2001; judgment; defendant pled guilty to attempt larceny in a building. Sentenced to 2 years probation and 6 months community service.

PEOPLE v OMAR SHERIFF WHITE, 36th District Court, 01/08/2001; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation.

PEOPLE v LEONARD EARL WILLIAMS, Wayne Circuit, 07/23/2002; judgment; defendant pled guilty to uttering and publishing. Sentenced to time served of 46 days and \$4,700 in restitution.

PEOPLE v CARLOS LAYMONT WILSON, 36th District Court, 05/14/2001; judgment; defendant pled guilty to larceny less than \$1,000. Sentenced to 2 weeks in jail, 1 year probation, and a \$1,000 fine.

PEOPLE v LUI CHUI YONG, Wayne Circuit, 12/06/2002; judgment; defendant pled guilty to larceny less than \$200. Sentenced to 1 year probation, \$600 court costs, and \$500 in attorney fees.

PEOPLE v FRANK YONKO, 36th District Court, 06/05/2002; judgment; defendant pled guilty to contributing to the delinquency of a minor. Matter taken under advisement by District Court and dismissed upon satisfactory completion of terms imposed by the Court.

PEOPLE v STACY ANN YOUNG, Wayne Circuit, 09/10/2002; judgment; defendant pled guilty to attempt conspiracy embezzlement. Sentenced to 2 years of probation and 250 hours of community service.

PEOPLE v PRINCE KHALID YOUSIF, 36th District Court, 11/29/2001; judgment; defendant pled guilty to underage gambling. Sentenced to 1 year of reporting probation and a \$200 fine.

PEOPLE v WASAM YOUSIF, 36th District Court, 08/20/2001; judgment; defendant pled guilty to larceny less than \$200. The Court imposed a \$300 fine and ordered the defendant to pay court costs.

PEOPLE v HARRY FRANK ZANKO, 36th District Court, 03/05/2002; judgment; defendant pled guilty to larceny less than \$1,000. The Court imposed a \$500 fine, \$200 court costs, and a \$60 Crime Victims fee.

PEOPLE v FRED ZIEGENBEIN, 36th District Court, 04/18/2002; judgment; defendant pled guilty to disorderly conduct. Sentenced to \$100 in fines and costs.

PEOPLE v NIZAR ISKANDER ZOMA, 36th District Court, 08/20/2001; judgment;

defendant pled guilty to larceny under \$200. Sentenced to \$100 in costs.

PEOPLE v THOMAS JOHN ZWOLINSKI, Wayne Circuit, 05/31/2002; dismissed due to defendant's death.

**Collections and Tax Enforcement Division-Prosecutions 2001-2002**

PEOPLE v JEROME JUDE CAPALDI, Macomb Circuit, 1/31/2001, criminal-restitution, restitution, in the amount of \$2,800.00 has been paid in full as term of probation.

PEOPLE v SAHIR KASMAROGI, Wayne Circuit, 1/31/2001, criminal-cigarette products, pled guilty and was sentenced to 24 months probation, court fees and 100 hours of community service.

PEOPLE v AHAMAD MOHAMAD AYACHE, Wayne Circuit, 1/31/2001, criminal-cigarette products, pled guilty and was sentenced to probation with the first 6 months in jail with work release.

PEOPLE v HUSSEIN ABMAD AYACHE, Wayne Circuit, 1/31/2001, criminal-cigarette products, pled guilty and was sentenced to 18 months probation, first 45 days work release with a \$3,000.00 fine.

PEOPLE v NASSER KASSEM BAZZI, Wayne Circuit, 1/31/2001, criminal-cigarette products, pled guilty and was sentenced to 18 months probation with the first 45 days to be served in jail with work release with usual court fees.

PEOPLE v KASSEM ALI BAZZI, Wayne Circuit, 1/31/2001, criminal-cigarette products, pled guilty and was sentenced to 18 months probation, 45 days in jail with work release.

PEOPLE v. DAVID EDWARD SHUMAKER, Wayne Circuit, 01/31/2001, criminal-cigarette products, pled guilty and was sentenced to 3 years probation, \$2,721.00 restitution, and \$1,540.00 in costs.

PEOPLE v JOSEPH SALAMEY D/B/A BEAVERTON FOOD CENTER, Wayne Circuit, 2/28/2001, criminal-cigarette products, the defendant was sentenced to 18 months probation, court costs and \$6416.00 in restitution.

PEOPLE v SAM SALAMEY D/B/A BEAVERTON FOOD CENTER, Wayne Circuit, 2/28/2001, criminal-cigarette products, the defendant was sentenced to one year probation, court costs and \$6,416.00 in restitution.

PEOPLE v MAJED RAYYAN D/B/A RAYYAN SUNOCO, Wayne Circuit, 2/28/2001, criminal-cigarette products, sentenced to 18 months probation, court costs and \$20,953.00 in restitution

PEOPLE v ELIAS RAYYAN D/B/A RAYYAN SUNOCO, Wayne Circuit, 2/28/2001, criminal-cigarette products, defendant sentenced to 18 months probation, court costs and \$20,953.00 restitution

PEOPLE v ALI SABRA, Wayne Circuit, 2/28/2001, criminal-cigarette products, defendant was sentenced to 18 months probation, court costs and \$36,043.00 in restitution.

PEOPLE v LEON JOHNSON D/B/A SHEIK'S CLOTHING, Berrien Circuit, 02/28/2001, criminal-sales and withholding tax, sentenced to serve 5 years probation with the first 300 days to be served jail, \$8,121.78 in restitution, and \$660.00 costs.

PEOPLE v SAMMY AMINE, Oakland Circuit, 03/31/2001, criminal-cigarette products, probation, \$435.00 restitution paid.

PEOPLE v MOHAMMAD HASSAN BERRI, Wayne Circuit, 03/31/2001, criminal-cigarette products, charged with resisting and obstructing and refusal to allow inspection, pled to assault. Sentenced to 1-year probation with a fine of \$400.00.

PEOPLE v SAM ESSA QAOUD, Wayne Circuit, 3/31/2001, criminal-cigarette products, the defendant pled to 5-year felony under TPTA violation - received 1-year probation plus costs.

PEOPLE v SAMI ALI ALIHASAN, Wayne Circuit, 4/30/2001, criminal-cigarette products, pled to attempt, paid \$1,100.00 restitution and \$485.00 in costs as part of one year probation.

PEOPLE v RAFAH GORGIS TOMA, Wayne Circuit, 04/30/2001, criminal-cigarette products, pled to an attempt, sentenced to 1-year probation and paid \$4,387.50 in restitution.

PEOPLE v JIM HANNA MATTI, Wayne Circuit, 05/30/2001, criminal-cigarette products, defendant pled guilty to a misdemeanor and was sentenced to 2 years probation, paid \$2,352.00 in restitution.

PEOPLE v WARREN DEWAYNE NELSON, Wayne Circuit, 5/30/2001, criminal-cigarette products, defendant was sentenced to probation.

PEOPLE v AMER-CAN SHOPS, INC., Wayne Circuit, 5/30/2001, criminal-cigarette products, dismissed

PEOPLE v PAUL KALKBRENNER D/B/A KIRBY CENTER, Kent Circuit, 05/30/2001, criminal-s.u.w. and personal income tax, defendant sentenced to probation with restitution.

PEOPLE v ABRAHAN ELSHEICK, 19th District Court, 06/30/2001, criminal, defendant pled and was sentenced to two felony counts and paid restitution of \$11,706.00.

PEOPLE v NAYEIFF PEDAWI, Saginaw Circuit, 07/31/2001, criminal-cigarette tax, defendant pled to two misdemeanor counts. Sentenced to two years probation and paid \$78,000.00 in restitution.

PEOPLE v CALVIN WEST, Washtenaw Circuit, 08/31/2001, criminal/sales tax, Defendant pled guilty to two felony charges. Sentenced to probation and restitution of \$19,997.00.

PEOPLE v HANI MAHMOUD ABDALLAH, Wayne Circuit, 08/31/2001, criminal cigarette tax fraud, Defendant pled guilty to a 5-year felony count and was sentenced to probation and restitution in the amount of \$1,635.

PEOPLE v CARL MCAFEE, 54-A District Court, 08/31/2001, cigarette sales to a minor, charges against individual Defendant were dismissed, and corporation (E-Commerce Today, Ltd.) pled guilty to all misdemeanor charges and paid fines, costs and restitution.

PEOPLE v CARL MCAFEE, 54-B District Court, 08/31/2001, cigarette sales to a minor, charges against individual Defendant were dismissed, and corporation (E-Commerce Today, Inc.) pled guilty to all charges and paid fines, costs, and restitution.

PEOPLE v E-COMMERCE TODAY, LTD, 54-B District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty to misdemeanor charges, and paid fines, costs, and restitution.

PEOPLE v E-COMMERCE TODAY, LTD, 54-A District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty to all misdemeanor charges and paid fines, costs, and restitution.

PEOPLE v PAUL STEBBINS, 54-A District Court, 08/31/2001, cigarette sales to a minor, charges against individual Defendant were dismissed, corporation (USA East) pled guilty to all misdemeanor charges and paid fines, costs and restitution.

PEOPLE v PAUL STEBBINS, 54-B District Court, 08/31/2001, cigarette sales to a minor, charges against individual Defendant were dismissed, corporation (USA East) pled guilty to all misdemeanor charges and paid fines, costs and restitution.

PEOPLE v USA EAST, 54-A District Court, 08/31/2001, cigarette sales to a minor,

Defendant corporation pled guilty to all misdemeanor charges, and paid all fines, costs, and restitution.

PEOPLE v USA EAST, 54-B District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty to all misdemeanor charges and paid all fines, costs, and restitution.

PEOPLE v E-VENTURE, 54-A District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty to all misdemeanor charges and paid all fines, costs and restitution.

PEOPLE v E-VENTURE, 54-B District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty as charges. All fines, costs and restitution have been paid.

PEOPLE v K & J DISTRUBUTORS, 54-A District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty as charges. All fines, costs and restitution have been paid.

PEOPLE v MAHAER M. HAIDER, 54-A District Court, 08/31/2001, criminal-cigarette products, charges against individual Defendant was dismissed. Corporation (Smokers Village) pled guilty to all charges and paid fines, costs and restitution.

PEOPLE v MAHAER M. HAIDER, 54-B District Court, 08/31/2001, criminal-cigarette products, charges against individual Defendant was dismissed. Corporation (Smokers Village) pled guilty to all charges and paid fines, costs and restitution.

PEOPLE v SMOKERS VILLAGE, 54-A District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty to all misdemeanor charges and paid all fines, costs and restitution.

PEOPLE v SMOKERS VILLAGE, 54-B District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation pled guilty to all misdemeanor charges and paid all fines, costs and restitution.

PEOPLE v JAMES PUNNELLE, 54-A District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation (E-Venture) pled guilty to all misdemeanor charges and paid all fines, costs and restitution.

PEOPLE v JAMES PUNNELLE, 54-B District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation (E-Venture) pled guilty to all misdemeanor charges and paid all fines, costs and restitution.

PEOPLE v JOANNE M. FEGAN, 54-A District Court, 08/31/2001, cigarette sales to a minor, Defendant corporation (K & J Distributors) pled guilty to all misdemeanor charges and paid all fines, costs and restitution.

PEOPLE v GHAZI MANNI, Wayne Circuit, 09/30/2001, criminal-cigarette products, defendant pled guilty to violations of the TPTA and was sentenced to 90 days in jail.

PEOPLE v MAJID NAIM AZZOW, Wayne Circuit, 09/30/2001, criminal-cigarette products, defendant pled guilty to violations of the TPTA and was sentenced to 90 days in jail.

PEOPLE v NABEL SHAMOON SOULAMAN, Wayne Circuit, 09/30/2001, criminal-cigarette products, defendant pled guilty to violations of the TPTA and was sentenced to 90 days in jail.

PEOPLE v MAHMOUD MOHAMED NASRALLAH, Wayne Circuit, 10/31/2001, criminal-tobacco tax, defendant pled guilty to 2 misdemeanor counts under the tobacco tax act. He was sentenced to \$500.00 fine on each count.

PEOPLE v NIDAL ALI HOUJAIRY, Wayne Circuit, 10/31/2001, criminal-cigarette products/food stamps. Defendant pled guilty to a 5-year felony under TPTA

violation, was sentenced to 2 months in jail and ordered to pay \$750.00 in restitution.

PEOPLE v MARWAN SAMIR SINNO, Wayne Circuit, 10/31/2001, criminal-cigarette products, dismissed.

PEOPLE v LEEANDREW DUKES, Berrien Circuit, 10/31/2001, criminal--liquor license violation, pled guilty and sentenced to probation and \$4,500.00 restitution.

PEOPLE v BRADLEY NYE D/B/A NORTHERN COMMUNICATION, Muskegon Circuit, 10/31/2001, criminal- personal income tax, sentenced to probation and paid restitution of \$19,600.00.

PEOPLE v DONALD DIVIS, Berrien Circuit, 10/31/2001, criminal-use tax, the defendant pled guilty as charged, paid the tax and ordered to pay fines and costs to the court.

PEOPLE v MELVIN AND SIDNEY HARRIS, Oakland Circuit, 11/30/2001, criminal-cigarette products, dismissed.

PEOPLE v DONNA MARIE QUEEN, Wayne Circuit, 11/30/2001, criminal-use, misdemeanor. Defendant pled and paid fines, costs and back taxes.

PEOPLE v JAMES MICHAEL COPAS, Wayne Circuit, 12/30/2001, criminal-personal income tax, and withholding tax, the defendant paid \$4,000.00 in tax, penalty and interest – as restitution on probation.

PEOPLE v KYLE JOHNSON, Allegan Circuit, 01/31/2002, criminal-personal income tax fraud, the defendant was sentenced to 5 years probation with the first 90 days in jail with work release at jail discretion--\$100,249.73 restitution and fines and costs.

PEOPLE v JAMIE ROBLYER, Allegan Circuit, 01/31/2002, criminal-personal income tax fraud, the defendant was sentenced to 23 months prison--\$136,151.83 restitution.

PEOPLE v RENAE JOHNSON, Allegan Circuit, 01/31/2002, criminal-personal income tax fraud, the defendant was sentenced to 5 years probation with the first 90 days in jail with work release at jail discretion-- \$100,249.73 restitution and fines and costs.

PEOPLE v LORI ROBLYER, Allegan Circuit, 01/31/2002, criminal-personal income tax fraud, the defendant was sentenced to 23 months in prison and fines of \$136,151.83 in restitution.

PEOPLE v MARCUS CHEVEZ JENKINS, Wayne Circuit, 01/31/2002, criminal-tax fraud, pled guilty - sentenced to 5 years probation and restitution in the amount of \$13,398.00.

PEOPLE v KHALED H. ALGUHEIM, Macomb Circuit, 2/28/2002, criminal-cigarette products, defendant pled guilty to attempted possession and was sentenced to 18 months probation.

PEOPLE v NASSER MOHAMAD BAZZI, Oakland Circuit, 2/28/2002, criminal-cigarette products, the defendant was charged with unlawful possession of cigarettes. Defendant pled to 5-year felony and paid of \$7,500.00 restitution. Paid in full.

PEOPLE v MICHAEL YATOOMA, Wayne Circuit, 02/28/2002, criminal cigarette products, Defendant pled guilty to a 5 year felony count, was placed on probation, paid restitution and court costs.

PEOPLE v ALI M ALI, Macomb Circuit, 2/28/2002, criminal-cigarette products, defendant pled guilty to attempted possession and was sentenced to 18 months probation.

PEOPLE v KASSEM HUSSEIN EL-BAZZAL, Wayne Circuit, 2/28/2002, criminal-

tobacco products, defendant pled to attempted possession and received 1-year probation.

PEOPLE v WALTER JONES JR, Wayne Circuit, 02/28/2002, criminal-personal income tax and withholding tax, defendant paid \$4,000.00 to resolve this case.

PEOPLE v FARES MICHAEL HATTAR, Wayne Circuit, 3/31/2002, criminal-cigarette products, restitution of \$720.00 was paid in full.

PEOPLE v TERRANCE JAMES PACZAS, Macomb Circuit, 03/31/2002, criminal-withholding tax, defendant pled guilty to failure to file withholding returns and pay withholding taxes, and received probation.

PEOPLE v HANI TERMOS, Wayne Circuit, 03/31/2002, criminal-cigarette products, defendant entered guilty plea for out of state cigarettes purchased to avoid tobacco products tax and received 2 years probation.

PEOPLE v JIHAD FARHAT, 34th District Court, 04/01/2000 04/30/2002, criminal-diesel fuel, pled on two felony counts and paid \$16,428.00 in restitution; as well as \$105,000.00 in other taxes penalty and interest and served 2-years probation.

PEOPLE v RAYMOND GREENSPAN, 51st District Court, 04/30/2002, criminal-sales tax, pled guilty and paid \$323,333.00 in restitution while on probation.

PEOPLE v CHOND BERNARD SHELTON, Washtenaw, Circuit, 04/30/2002, criminal-cigarette, defendant received 1 year in jail following plea to attempted possession of unauthorized tobacco tax stamps.

PEOPLE v. CLARENCE STEINMAN, Wayne Circuit, 04/30/2002, criminal-personal income tax, and the defendant was sentenced to probation and paid \$5,166.00 restitution.

PEOPLE v ROBERT KELLY, Monroe Circuit, 04/30/2002, criminal-cigarette tax, defendant pled guilty and sentenced to 5 years probation with one day in jail and \$3,600.00 in restitution.

PEOPLE v TERRY MOORE, Wayne Circuit, 04/30/2002, criminal sales and income tax fraud, pled guilty to two of four counts and paid restitution, and five years probation.

PEOPLE v WILLIAMS RAYMOND KOLLEY, Wayne Circuit, 04/30/2002, criminal cigarette tax fraud, Defendant plead guilty to a felony charge, was ordered to pay \$696.00 in restitution, and 1 year probation.

PEOPLE v DONALD FECAY, Wayne Circuit, 04/30/2002, Jury acquitted Defendant on all counts of income tax evasion.

PEOPLE v MAHMOUD AHMED HACHEM, Wayne Circuit, 04/30/2002, criminal tobacco tax fraud, Defendant pled guilty, paid \$6,147 in restitution, fines and costs.

PEOPLE v YOUSSEF AOUN BAKRI, Wayne Circuit, 04/30/2002, criminal-cigarette product, the defendant pled guilty to one count and was sentenced to a term of probation and paid \$1,663.00 restitution.

PEOPLE v JANY OULIGUIAN, Oakland Circuit, 04/30/2002, criminal-cigarette products, see pled to two felony counts, served 6 months probation and paid \$2,800.00 in restitution.

PEOPLE v HASSANEIN EL-AKKARI, Macomb Circuit, 06/30/2002, criminal-cigarette products, defendant pled guilty to felony violation under the TPTA. Sentenced to 18 months probation, 10 days jail, and paid \$5,725.00 restitution.

PEOPLE v DARWIN LEON SMITH, Muskegon Circuit, 06/30/2002, criminal sales tax fraud, Defendant plead guilty two misdemeanor charges, was sentenced to probation and ordered to file corrected returns and pay restitution in the amount of \$8440.00.

PEOPLE v HASSEIN M. MAKKI, Wayne Circuit, 07/31/2002, criminal sales tax fraud, the Defendant is deceased, case closed without final disposition.

PEOPLE v IBRAHIM AL-NIQRISH, Wayne Circuit, 08/31/2002, criminal-cigarette products, pled guilty, 2 years probation, \$7,500.00 restitution

PEOPLE v HUSSEIN ABDUL DAHER, Wayne Circuit, 08/31/2002, criminal-cigarette products, defendant pled guilty to felony. Sentenced to five years probation and restitution of \$10,000.00.

PEOPLE v MARVIN LEONARD WAGNER, Wayne Circuit, 08/31/2002, criminal-use, defendant pled guilty to one count felony, paid taxes, penalty and interest, also agreed to file and pay 1994-96 income tax returns.

PEOPLE v EDWARD J. PORTIS D/B/A EDDIE'S PIZZA, Oakland Circuit, 08/31/2002, criminal-sales tax, 2 years probation and restitution of \$68,000.00 paid.

**Criminal – Prosecutions 2001 - 2002**

STATE OF MICHIGAN, DEPT. OF TREASURY v SAID M ABDALLAH AKA SAID M. ABDULLAH, Wayne Circuit, 11/19/2002, Use tax violation on sale of automobile; pled guilty and sentenced to 6 months probation, 50 hrs community service, fines, costs and restitution of \$2,040.00.

PEOPLE v JACQUELYN ABRAM, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MICHELLE ADAMS, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,811.

PEOPLE v RYNETTA ALEXANDER, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,877.

STATE OF MICHIGAN, DEPT. OF TREASURY v KHALIL ALIAHMAD, Macomb Circuit, 10/31/2002, Aliahmad declared to Secretary of State that he paid \$2,500 for a 1993 Mercedes Benz when in fact he paid \$22,000 in cash for the car. Paid \$150 in use tax rather than the \$1,320 he owed; Pled guilty to misdemeanor use tax violation; sentenced 7/17/02 to fines, costs and \$2,428 in restitution.

PEOPLE v BARBARA ALLEN, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,989.

PEOPLE v FLOYD JACKSON ALLEN JR, Wayne Circuit, 06/07/2001, charged with 4 counts welfare fraud over \$500 for scheme with FIA/OIG employee Mark Evans and Shirlon Anderson. Pled guilty to welfare fraud; sentenced 6/7/01 to \$7,562 restitution, \$360 supervision fee, 3 years probation.

PEOPLE v OLISA ALLEN, Wayne Circuit, 01/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,778.

PEOPLE v EBONY ALMORE, Wayne Circuit, 06/25/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$15,248.

PEOPLE v HASSAN ALSHUBI, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,945.

PEOPLE v SHARON ANDERSON, Wayne Circuit, 06/06/2001, pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v SHERRI ANDERSON, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,734.

PEOPLE v SHIRLON J ANDERSON, Wayne Circuit, 04/27/2001, complaint charging Anderson with aiding & abetting welfare fraud over \$500 and food stamp fraud relating to her scheme with Mark Evans and Floyd Allen, Jr. Pled guilty to food stamp fraud; sentenced to 2 years probation, \$1,000 restitution, \$165 costs.

PEOPLE v KATHERINE ANDREWS, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,573.

PEOPLE v NABIL ANSARA, Wayne Circuit, 07/30/2002, charged with welfare

fraud; case dismissed and approved for recoupment.

PEOPLE v NORMA ANSARA, Wayne Circuit, 07/30/2002, welfare fraud of \$25,445; case dismissed and approved for recoupment.

PEOPLE v MELANIE ARTIST, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$16,735.

PEOPLE v SHERRY ARTIST, Wayne Circuit, 11/14/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution on \$5,208.00.

PEOPLE v CHARLES AUSTIN, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,000.

PEOPLE v SONYA AUTRY, Wayne Circuit, 06/06/2001, charged with welfare fraud of 12,195, pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v ANDREW FREDERICK BABICK JR, Calhoun Circuit, 02/10/1997, charged with 2 counts felony murder and arson of a dwelling. Two children were killed in arson fire started by Babick because of bad drug deal. Convicted of 2 counts murder and arson.

PEOPLE v ANTIONETTE BAKER, Wayne Circuit, 01/18/2000, welfare fraud, dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v APRIL BAKER, Wayne Circuit, 08/22/2002, charged with welfare fraud; dismissed and approved for recoupment action and returned case back to the MFIA/OIG.

PEOPLE v CARMEN BAKER, Wayne Circuit, 11/18/2002, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v STEWART LESLIE BAKER, Calhoun Circuit, 05/16/2002, CIS Office of Financial and Insurance Services referred a complaint filed by the United Health Care Options, a subsidiary of the AARP, that it was defrauded by Battle Creek resident Stewart Baker through the submission of false/forged medical care statements for services purportedly provided by the VA Hospital in Battle Creek. Pled guilty to counts 3 & 4, fraudulent insurance acts; sentenced to \$100 fine, \$1,000 costs, \$15,610 restitution, \$60 CVF, \$1,680 probation fee, 24 months probation.

PEOPLE v TEZANNE EDWINA BARBER, Wayne Circuit, 06/28/2001, Edwina Barber allegedly stole social security numbers and applied for credit over the internet with the numbers. Charged with 5 counts unauthorized credit application and 1 count using a computer to commit a crime. Pled guilty to 1 count unauthorized credit application and 1 count using a computer to commit a crime; sentenced to 18 mos. probation with mental health counseling, no residence change. Continue current employment at least 30 hrs/wk & pay restitution in the amount of \$1901.61.

UNITED STATES v GARY BARCUME, JR., United States District Court, Eastern District, 12/15/2002, Barcume was an associate of Franklin Riley in trafficking marijuana in the Genesee County area. Co-prosecuting with US Atty charging Barcume for drug trafficking and/or racketeering. Pled and sentenced federally. Received 40 months prison.

PEOPLE v DONNISE BARNES, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA

PEOPLE v MARGO BARNES, Wayne Circuit, 11/18/2002, welfare fraud, \$1,119; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SHALANDA BARNES, Wayne Circuit, 12/10/2002, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and Restitution of \$2,330.

PEOPLE v SHIQUITA BARNES, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,963.

PEOPLE v THERESA BARNES, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$11,830.

PEOPLE v JASON WADE BARNETT, Van Buren Circuit, 06/11/2002, charged with money laundering and conspiracy to commit money laundering, pled guilty to one county 1st degree money laundering; sentenced to 2-20 years, \$60 crime victims fee, \$60 DNA fee.

PEOPLE v GREGG BARR, 86th District Court, 06/07/2002, charged with 10 counts of possession of child sexually abusive material and 10 counts using a computer to commit crime. Pled guilty to 10 counts of child sexually abusive activity; sentenced to 240 days in jail, 24 months probation, \$100 fine, \$400 costs, \$50 CVF, \$1,134 to AG for extradition expenses.

PEOPLE v PATRICIA BATES, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,194.

PEOPLE v VANINA BATISTE, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TONYA KAY BATTJES, 57th District Court, 01/30/2001, Allegan County prosecutor received information that circulating petitions for the office of probate judge may have contained false circulation certification, Battjes charged with 1 count misdemeanor false statement in a certificate on a petition, pled guilty to 1 count false statement in a certificate on a petition, sentenced 1/30/2001 to \$20 fines and \$30 costs.

PEOPLE v SHELLIE BEAL, Wayne Circuit, 11/18/2002, welfare fraud of \$43,700; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CLARENCE OLIVER BEAN, JR., Lake Circuit, 10/16/2001, MSP requests AG assistance in a 20 year old homicide involving a Lake County resident, Diane Chorba. Ms. Chorba has been missing for 20 years (her body has not been discovered). Evidence indicates she was murdered by her then boyfriend, Ollie Bean. Bean has since moved to Oregon. Grand jury indictment issued 2/13/2001 charging Bean with murder. Convicted by jury of second degree murder; sentenced 10/16/2001 to 30-60 years in prison.

PEOPLE v DIANA BEAUREGARD, Wayne Circuit, 07/27/2000, welfare fraud case 6,279; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TINA BEAVERS, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,733.

PEOPLE v ALGERNON BELL, Wayne Circuit, 10/15/2001, welfare fraud; pled and

sentenced to 3 years probation, 150 hours community service, and restitution of \$7,281.

PEOPLE v DENETRA BELL, Wayne Circuit, 06/06/2001, Welfare fraud of \$5,988; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v ROSE BENDER, Wayne Circuit, 09/23/2001, welfare fraud of \$1,481; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BEVERLY BENNETT, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service, \$24,994 restitution.

PEOPLE v CASSANDRA BENNETT, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DONALD BENSON, Wayne Circuit, 12/21/2001, Detroit PD has investigated a complaint from a major business in the city, Technicolor, Inc, who appears to have been defrauded out of over \$1 million by a company known as American Conexion Company and its owner Leroy Flanz. Scam involves widespread false billing and bribery of Technicolor employees. Charged with Conspiracy to Commit False Pretenses and False Pretenses. Pled guilty to 1 count conspiracy to commit false pretenses; sentenced to 5 years probation and cooperate with prosecution of Flanz.

PEOPLE v ARETHA BERRY, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 150 hours community service and restitution of \$5,520.

PEOPLE v MUSTAFA BESLIC, Wayne Circuit, 07/30/2002, charged with welfare fraud; case dismissed and approved for recoupment

PEOPLE v NASIHA BESLIC, Wayne Circuit, 07/30/2002, charged with welfare fraud; case dismissed and approved for recoupment.

PEOPLE v ANGELA BICKERS, Wayne Circuit, 11/18/2002, welfare fraud of \$12,731; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TODD KEVIN BIRD, 64-B District Court, 12/31/2002, Todd Kevin Bird charged by the FCMLS with 1 count operating/maintaining a laboratory involving hazardous waste, the controlled substance methamphetamine. See also case against Bird in Kent County. Per plea in related case, this case will not be prosecuted.

PEOPLE v TODD KEVIN BIRD, Kent Circuit, 12/01/2002, charged with 1 count fleeing a police officer and 1 count possession with intent to deliver controlled substance, methamphetamine. Pled as charged; sentenced to 5-20 years in prison.

PEOPLE v PATRICIA BIVENS, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,241.

PEOPLE v RINATA BIVENS, Wayne Circuit, 07/30/2002, Charged with welfare fraud; case dismissed and approved for recoupment.

PEOPLE v DEBORAH BLANFORD, Wayne Circuit, 11/18/2002, welfare fraud case 3,204; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CHARLIE BLAYDES, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$10,037.

PEOPLE v LADONNA BLAYDES, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$10,037.

PEOPLE v VITA MELVA BLOCKER, Wayne Circuit, 07/18/2001, FIA, OIG investigation of Sharise Lynette Smith and Vita Blocker for suspected child day care fraud. Smith and Blocker are state employees with the Michigan Gaming Control Board. Vita Blocker charged with 1 count welfare fraud over \$500 and 1 count conspiracy to commit welfare fraud over \$500. Pled to one count of Welfare Fraud over \$500.00; sentenced to \$5,434 restitution, \$180 supervision fee, no employment with State of Michigan for 5 years, 18 months probation.

PEOPLE v JACQUEL BOGAN, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v VENICE BOHANNON, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$2,208.

PEOPLE v JULIE BOLTON, Wayne Circuit, 07/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,958.

PEOPLE v RUSSELL GENE BOLWELL, Kent Circuit, 10/02/2002, charged by the FCMLS with 1 count possession of controlled substance, methamphetamine; pled guilty to 1 count possession of methamphetamine; sentenced to \$600 costs, \$60 cvf, \$60 DNA, \$960 supervision fee, 24 months probation.

PEOPLE v LASHANDA BONKNIGHT, Wayne Circuit, 12/21/2001, welfare fraud, \$16,432; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DEBORAH BOOKER, Wayne Circuit, 11/28/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DONNA BOOKER, Wayne Circuit, 11/18/2002, welfare fraud of \$10,268; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MARY BOOKER, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,348.

PEOPLE v JASON DANIEL BORIS, Oakland Circuit, 01/29/2001, charged with child sexually abusive activity and attempted third degree criminal sexual conduct for using the internet to start a relationship with a person between 13-16 with the intent to personally meet her and engage in sexual activity, pled guilty, sentenced 1/29/01 to 30 months on each count, to be served concurrently.

PEOPLE v MONIQUE BOUNDS, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$3,255.

PEOPLE v VALERIE BOWDEN, Wayne Circuit, 11/26/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$1,677.28

PEOPLE v CASSANDRA BOWLER, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,613.

PEOPLE v MARY ALICE BOWMAN, Kalamazoo Circuit, 08/31/2001, Blessings

Pyramid Scheme. Charged by Kalamazoo County Prosecutor and co-authorized by AG with 1 count promoting pyramid scheme. Pled guilty to 1 count promoting pyramid scheme, sentenced to \$12,000 restitution to six victims, \$500 fine, \$350 costs, \$360 supervision fee, \$60 CVF, and 1 year probation.

PEOPLE v HELEN BREWER, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v GLORIA BRIGHT, Wayne Circuit, charged with welfare fraud; Dismissed and approved for recoupment. Case returned to complaining agency, MFIA

PEOPLE v ANGELIA BROWN, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$15,320.

PEOPLE v CAROLYN BROWN, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$2,321.

PEOPLE v LEATHA BROWN, Wayne Circuit, 11/18/2002, welfare fraud \$10,362; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LESTER BROWN, Wayne Circuit, 11/18/2002, welfare fraud case, \$5,362; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v NICO BROWN, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v RICHARD BROWN, Calhoun Circuit, 05/26/2000, First Financial Investments investigation, charged with money laundering, securities fraud, embezzlement; pled guilty; sentenced to 5 1/2 to 10 years imprisonment (to be served concurrent with federal sentence), \$2,173,112 restitution (joint with Robert I. Wilson) and \$60 to crime victims fund.

PEOPLE v STEVEN PAUL BROWN, Macomb Circuit, 12/19/2001, Brown charged with 1 count unauthorized access to a computer, 1 count installing eavesdropping device, 1 count eavesdropping, and 1 count using a computer to commit a crime. Sentenced to 2 years probation, with \$30 per month in costs/fees, with conditions requiring maintenance of employment, \$60 victims' fee, computer use prohibited except for business, and recommended mental health evaluation.

PEOPLE v GLORIA BROWN, Wayne Circuit, 04/02/2002, Welfare fraud of \$9,816; Felony dismissed; FIA approved for recoupment.

PEOPLE v LUSUNDR A BROYLES, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,891.

PEOPLE v JACQUELINE BUCK, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,630.

PEOPLE v BUCKNER ENTERPRISES, LTD, Muskegon Circuit, 03/19/2002, Corporation charged in our gun "scarecrow" operation with 4 counts of sale of firearms/weapons to a felon. Pled guilty; sentenced 3/8/02 to \$1,500 fine, \$60 CVF, 1 year probation and \$1,212 restitution to the Attorney General for investigative costs.

PEOPLE v NEEDRA BUFKIN, Wayne Circuit, 01/08/2002, charged with welfare

fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$4,894.

PEOPLE v JAMES MICHAEL BUNK, 72nd District Court, 04/27/2001, charged with 1 count Assault and Infliction of Serious Injury [& 1 count Making a False Report of the Commission of a Crime, Defendant pled guilty 3/27/01 to one misdemeanor count filing false report; sentenced 4/13/01 to 93 days jail, \$100 fine, \$300 costs.

PEOPLE v MICHAEL JOHN BURKE, Livingston Circuit, 06/18/2001, Howell attorney, Michael Burke, charged with one count embezzlement by agent or trustee over \$20,000. Pled guilty to embezzlement by agent over \$20,000; sentenced 6/18/01 to \$1,342,492-\$1,661,665 restitution, \$60 CVF, 3-10 years in prison.

PEOPLE v JOHN BURKES JR, Wayne Circuit, 07/07/2001, charged with 1 count food stamp fraud over \$1,000; 1 ct felony firearm, and a habitual offender-fourth offense notice. Pled guilty and was sentenced.

PEOPLE v CLARENCE BURKS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MARY BURKS, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$9,142.

PEOPLE v GWENDOLYN BURNETTE, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$11,583.00.

PEOPLE v JACQUELINE BURRESS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DINAH BUTLER, Wayne Circuit, 06/06/2001, welfare fraud of \$12,502; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v PEARLENA BUTLER, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,821.

PEOPLE v YVONNE BUTLER, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,339.

PEOPLE v DELORES BYRD, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BARBARA CAGLE, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,135.

PEOPLE v CAROL CALHOUN, Wayne Circuit, 06/06/2001, welfare fraud 7,025; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v MICHELLE CALHOUN, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,485.

PEOPLE v TAMMARA CALLAHAN, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,909.

PEOPLE v FEHIM CAMPARA, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,677.

PEOPLE v MILADA CAMPARA, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,677.

PEOPLE v GWENDOLYN CAMPBELL, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,449.

PEOPLE v JUDY CAMPBELL, Wayne Circuit, 04/23/2002, welfare fraud, \$3,434; felony dismissed; FIA approved for recoupment.

PEOPLE v SOPHIA CAMPBELL, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,728.

PEOPLE v TIMOTHY RAY CARIGON, Ionia Circuit, 02/11/02, Defendant convicted and sentenced on first degree murder. He went through the appeal process and now has filed a Motion for Relief from Judgment in the Circuit Court. Defendant's Motion for Relief from Judgment denied.

PEOPLE v SCHENELL CARLISLE, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$3,659.

PEOPLE v STEPHANIE CARREKER, Wayne Circuit, 06/06/2001, Welfare fraud 6,203; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v DANIEL M CARROLL, Livingston Circuit, 02/22/2001, charged with one count possession with intent to deliver marijuana and one count money laundering; pled no contest to both counts. Sentenced on 2/22/01 to 1 year in jail (to be served at end of probation; may be waived), 5 years probation, \$600 costs, \$60 crime victims and \$150 other costs, license suspended for 1 year.

PEOPLE v DARRYL CARSWELL, Wayne Circuit, 02/19/2002, Complainant states that VISA called him and asked him if he applied for a credit card. He had not applied for the credit card. Carswell charged with 5 counts submitting application for credit in another's name and 1 count habitual offender second offense. Pled guilty; sentenced to 1-4 years on counts III & IV, unauthorized credit application.

PEOPLE v AMANDA CARTER, Wayne Circuit, 09/25/2001, welfare fraud; pled agreement, sentenced to 3 years probation, 150 hours community service, and restitution of \$6,647.

PEOPLE v BRUCE CARTER, Wayne Circuit, 12/21/2001, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LINDA CARTER, Wayne Circuit, 10/04/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$6,213.

PEOPLE v MARY CARTER, Wayne Circuit, 06/06/2001, welfare fraud of 2,675; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v WILHEMENIA CARTER, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,599.

PEOPLE v PATRICIA CAVER, Wayne Circuit, 01/27/2000, charged with welfare

fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v ALICIA CHAMBERS, Wayne Circuit, 06/06/2001, welfare fraud of \$17,532; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v LISA CHAMBERS, Wayne Circuit, 11/18/2002, welfare fraud of \$6,929; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LYNN RENAI CHATTAM, Wayne Circuit, 08/08/2002, FIA-OIG alleges that a Detroit woman, Lynn Chattam, defrauded FIA by continuing to receive assisted living payments after her "client" died. In addition, she forged the name of the "client" on various checks and provider logs. Pled guilty to one count of felony welfare fraud; sentenced to 3 years probation, 150 hours community service and \$2,500 restitution.

PEOPLE v STEPHANIE CHENET, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,673.

PEOPLE v MONICA CHILDRESS, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$2,055.00.

PEOPLE v SABRINA CHRISTON, Wayne Circuit, 11/18/2002, welfare fraud \$6,943; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CASSAUNDRA CLARK, Wayne Circuit, 07/24/2002, welfare fraud of \$13,270; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$13,270.

STATE OF MICHIGAN, DEPT. OF TREASURY v JAMES RICHARD CLARK, Genesee Circuit, 12/18/2002, charged with violating tobacco products tax act. Pled guilty to misdemeanor violating Tobacco Products Tax Act; sentenced 12/18/2002 to 60 days jail, \$1,000 fine, court costs, \$480 restitution.

PEOPLE v KAREN CLARK, Wayne Circuit, 06/25/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$2,720.

PEOPLE v KIMBERLY CLARK, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$2,321

PEOPLE v KUMBA CLARK, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v NICOLE CLARK, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,148.

PEOPLE v LINDA CLAY, Wayne Circuit, 02/15/2002, charged with welfare fraud; pled and sentenced to diversion status.

PEOPLE v BILLY CLAYTON, Wayne Circuit, 11/19/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$597.00.

PEOPLE v DARLENE CLECKLEY, Wayne Circuit, 04/23/2002, charged with welfare fraud; Dismissed - By Plaintiff, Felony dismissed; FIA approved for recoupment.

PEOPLE v VALERIE CLOSE, Wayne Circuit, 08/08/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,277.

PEOPLE v GENA CLYBURN, Wayne Circuit, 11/18/2002, welfare fraud case 4,558; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DANYELL COFFEY, Wayne Circuit, 06/06/2001, welfare fraud of 6,068; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v YOLANDA COCKLEY, Wayne Circuit, 09/25/2001, welfare fraud of \$25,278; plea agreement, sentenced to 3 years probation, 150 hours community service, \$25,278 restitution.

PEOPLE v ADRIAN COLE, Wayne Circuit, 08/08/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$12,327.

PEOPLE v COLE DAQUANDA, Wayne Circuit, 05/06/1999, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$3,718.

PEOPLE v DENISE COLE, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,370.

PEOPLE v VERNALD COLE, Mecosta Circuit, 08/26/2002, charged with one count of possession of altered auto parts for reselling Wilderness AT tires that had been recalled and which should have been destroyed. Pled guilty; sentenced to 18 months probation, \$1,000 fine, must disable the truckload of tires.

PEOPLE v BENITA COLEMAN, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,155.

PEOPLE v LORRAINE COLEMAN, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MARY COLEMAN, Wayne Circuit, 03/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JOHN COLLIE, NATIONAL RESEARCH CO, Wayne Circuit, 12/20/2002, charged with four counts of false pretenses. Pled no contest to all charges; sentenced 12/20/02 to 15 months to 10 years in prison (concurrent with federal sentence) and \$130,000 restitution.

PEOPLE v EDDIE EUGENE COLLINS, Washtenaw Circuit, 06/04/2002, charged with various counts of possession with intent to deliver cocaine, conspiracy, firearms violations. Pled guilty to one count receiving & concealing weapon and one count delivery/manufacture controlled substance less than 50 grams; sentenced 6/4/02 to 12 months jail.

PEOPLE v LAWANNA COLLINS, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,216.

PEOPLE v BETTY COLSON, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$7,173.

PEOPLE v ELIZABETH CONRAD, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$2,834.

PEOPLE v VALERIA COOK, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$14,107.

PEOPLE v DORIS COOPER, Wayne Circuit, 06/25/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,612.

PEOPLE v PRISCILLA COTTRELL, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BLENDIA COWARD, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$11,712.

PEOPLE v JULIA COX, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$9,112.00.

PEOPLE v RENITA CRENSHAW, Wayne Circuit, 11/18/2002, welfare fraud of \$14,824; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DENAI CROFF, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,636.

PEOPLE v ANGELA CROSS, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$1,686.

PEOPLE v REGINA CULVER, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,977.

PEOPLE v DIANE CUNNINGHAM, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,485.

PEOPLE v EBONY CUNNINGHAM, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$1,999,

PEOPLE v GISELE CUNNINGHAM, Wayne Circuit, 06/06/2001, welfare fraud of 5,090; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v SANDRA CUNNINGHAM, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$12,899.

PEOPLE v D&D DISCOUNT INC, Ingham Circuit, corporation charged in our gun "scarecrow" operation with 1 count of sale of firearms/weapons to a felon. Pled guilty to 1 count sale of firearm to a felon; sentenced to \$800.00 fines and \$245.00 restitution to the Dept of Attorney General for investigative costs.

STATE OF MICHIGAN v ROBERT DABISH, Macomb Circuit, 09/25/2002, violation of tobacco products act, pled guilty to possession of unstamped cigarettes; sentenced to 3 years probation.

STATE OF MICHIGAN, DEPARTMENT OF TREASURY v ROBERT DABISH D/B/A SMOKERS SAVINGS, Wayne Circuit, 09/25/2002, violation of Tobacco Products Act; pled guilty to possession of unstamped cigarettes; sentenced to 3 years probation.

PEOPLE v ADRIANE DALE, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$10,599.00.

PEOPLE v RETER DALE, Wayne Circuit, 11/18/2002, Welfare fraud \$2,940; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CASSAUNDRA DANIEL, Wayne Circuit, 11/18/2002, welfare fraud of \$10,978; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v ALICIA DARGIN, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TONYA DARGIN AKA LATSON, Wayne Circuit, 05/21/2002, charged with welfare fraud; pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$36,409.47.

PEOPLE v PAMELA DARNELL, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$9,317.

PEOPLE v DAWN DAVIS, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$8,739.

PEOPLE v GLORIA DAVIS, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,671.

PEOPLE v KILA DAVIS, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,814.

PEOPLE v LORRAINE DAVIS, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$12,518.

PEOPLE v ZONDRA DAVIS, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$9,297.

PEOPLE v JAMES PETER DEFAZIO, Livingston Circuit, 12/01/2002, charged with one count manufacture controlled substance (growing 20-199 marijuana plants). Pled to manufacturing less than 20 plants of marijuana; sentenced to 6 months in jail and probation.

PEOPLE v STEVEN ANTHONY DEFAZIO, Livingston Circuit, 12/01/2002, charged with one count manufacture controlled substance (growing 20-199 marijuana plants). Pled to manufacturing less than 20 plants of marijuana; sentenced to 90 days on tether and probation.

PEOPLE v ROSE DELANEY, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,726.

PEOPLE v ANGELA DENNIS-WILSON, Wayne Circuit, 04/23/2002, welfare

fraud, \$11,614; Dismissed - By Plaintiff, Felony dismissed; FIA approved for recoupment.

PEOPLE v JEFFREY MARK DEPUE, Kalamazoo Circuit, 07/09/2001, Charged in the Blessing Pyramid Scheme investigation with 1 ct pyramid/chain promotions. Pled guilty to 1 count attempted pyramid/chain promotion; sentenced 7/9/01 to \$6,750 restitution, \$350 costs, \$60 CVF, 12 months probation.

PEOPLE v LATITIA DEWHART, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,097.

PEOPLE v RANDI DIAMOND, Wayne Circuit, 11/18/2002, 22,156 welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v GENEVA DILLARD, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SHARON DINKINS, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$5,040.

PEOPLE v SHEILA DISMUKES, Wayne Circuit, 11/18/2002, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CATHY DIXON, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,500.

PEOPLE v TAMMY DONALD, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$12,915.

PEOPLE v DORICE VANN, Wayne Circuit, 06/20/2002, welfare fraud of \$3,220; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$3,220.

PEOPLE v OSKIE DOUGLAS, Wayne Circuit, 11/18/2002, charged with welfare fraud See also Pv Denise Henry-Douglas; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v GLORIA DOUTHET, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,175.

PEOPLE v JASMINE DOWNER, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,568.

PEOPLE v DAVID PHILLIP DRAHEIM, Ingham Circuit, 07/17/2002, Draheim is charged by the Attorney General and the Ingham County Prosecutor with open murder for the 1986 sexual assault and murder of Jeanette Kirby at Riverbend Park in Holt. Jury convicted Draheim of murder in the second degree; sentenced to 60-90 years.

PEOPLE v CLAUDETTE DUBOIS, Wayne Circuit, 06/21/2000, welfare fraud of \$2,153; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v RHONDA DUDLEY, Wayne Circuit, 06/04/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v KELLY DUMAS, Wayne Circuit, 08/27/2002, 14,869 welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$14,869.

PEOPLE v ARLENE DUREN, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$12,205.

PEOPLE v SANDRA EARL, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CHARLES LAMONT EASTMAN, Ingham Circuit, 10/25/2002, charged with 1 count child sexually abusive activity and 1 count using a computer to commit a crime (traveler case involving a minor). Pled guilty to Child Sexually Abusive Activity; sentenced to 48-220 months.

PEOPLE v MELMON EBERHARDT, Wayne Circuit, 05/21/2002, welfare fraud, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$13,818.

PEOPLE v JASON ALAN EDWARDS, Oakland Circuit, 09/27/2002, charged by HTCU in a traveler case with 1 count child sexually abusive activity and 1 count communicating with another to commit crime using a computer for seeking sex with a minor. Pled guilty to 1 count child sexually abusive activity; sentenced 9/27/02 to 24 mos-20 years in prison, \$60 Victim's Rights Fee, \$60 DNA testing.

PEOPLE v RHONDA EDWARDS, Wayne Circuit, 11/18/2002, welfare fraud of \$3,717; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SARAH EDWARDS, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,058.

PEOPLE v DEBORAH ELLIOTT, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,416.

PEOPLE v DENISE ELLIS, Wayne Circuit, 11/18/2002, welfare fraud of \$7,902; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v STEPHANIE EMBRY, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,295.

PEOPLE v MYLECE ENGLISH, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,430.

PEOPLE v EDWARD ESTRADA, Van Buren Circuit, 06/11/2002, charged with money laundering and conspiracy to commit money laundering. Pled guilty to one count 1st degree money laundering; sentenced to 7 1/2-20 years, \$60 crime victims fee, \$60 DNA fee.

PEOPLE v TONI ETTER, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$5,176.

PEOPLE v LATRICE EVANS, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,731.

PEOPLE v MARK STEVEN EVANS, Wayne Circuit, 03/30/2001, charged with 1 count food stamp fraud, 9 counts welfare fraud, and 1 count conspiracy to commit welfare fraud; pled guilty to 1 count food stamp fraud \$1,000, all other counts dismissed; sentenced 2/26/2001 to 4 years probation, \$20,000 restitution, \$165 costs, \$60 crime victims fund.

PEOPLE v MARY EZEKIEL, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$4,597.

PEOPLE v TENNEH FALLAH, Wayne Circuit, 01/31/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,720.

PEOPLE v TANYA FASAN, Wayne Circuit, 07/06/2002, welfare fraud of \$863; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v GLENDA FELTON, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$12,926.

PEOPLE v LEO FENNELLY, Wayne Circuit, 12/17/2002, charged with 1 count child sexually abusive activity, 1 count using computers to communicate with another for commit crime, 4 counts using a computer to attempt to commit a crime. Pled guilty; sentenced to 30 months-20 years in prison.

PEOPLE v SENLENA FIELDS, Wayne Circuit, 11/01/2002, charged with welfare fraud; dismissed and approved case for recoupment. Returned back to the MFIA.

PEOPLE v SHIRLEY FIELDS, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$12,537.

PEOPLE v MILO LORENZO FITZPATRICK, Calhoun Circuit, 07/09/2001, charged by the Calhoun County Prosecutor with assault with intent to murder and felony firearm for trying to kill a Battle Creek police officer. After case was bound over to circuit court, prosecutor conflict appeared. We took over the case from the prosecutor 1/30/2001. Found guilty by jury of all counts of assault with intent to murder and felony firearms; sentenced 7/9/01 to life in prison.

PEOPLE v LEROY D FLANZ, Wayne Circuit, 12/21/2001, charged with Conspiracy to Commit False Pretenses and False Pretenses. Pled guilty to 3 counts false pretenses over \$100; sentenced to probation and \$150,000 restitution.

PEOPLE v YVONNE FLEMING, Wayne Circuit, 12/02/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$9,432.

PEOPLE v AVA FLETCHER, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v WANDA FLETCHER, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$10,091.

PEOPLE v DOUGLAS GEORGE FLINT, Lenawee Circuit, 11/26/2002, charged with one count murder for the murder of Russell Channing Smith. Convicted of 2nd degree murder and habitual offender 2nd; sentenced to 60-90 years in prison.

PEOPLE v NINA FLOWERS, Wayne Circuit, 10/16/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$11,001.

PEOPLE v TINA FORBES, Wayne Circuit, 07/24/2002, charged with welfare fraud;

pled and sentenced to 3 years probation, 150 hours community service and restitution of \$3,283.

PEOPLE v ANGELA FORD, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,169.

PEOPLE v CHANTEL FORD, Wayne Circuit, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,524.

PEOPLE v LEE ANNA FORD, Wayne Circuit, 02/21/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,075.

PEOPLE v MICHAEL CHRISTOPHER FORD, Washtenaw Circuit, 12/02/2002, charged with 1 count Forgery. Pled guilty to forgery and uttering & publishing; sentenced 12/2/02 to 14-21 months prison, \$60 cvf, \$150 DNA lab.

PEOPLE v RESIA FOSTER, Wayne Circuit, 01/25/2002, welfare fraud of \$10,422; pled and sentenced to diversion status and closed.

PEOPLE v KIMBERLY ALICIA FOWLKES, Wayne Circuit, 08/28/2001, charged with 4 counts forgery and 4 counts uttering & publishing in this scheme. Fowlkes pled guilty to 1 count forgery and 1 count uttering and publishing; sentenced 8/28/01 to 1 day in jail, 1 year probation, \$1,045 in restitution.

PEOPLE v DEBORAH FRANKLIN, Wayne Circuit, 06/20/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$3,448.

PEOPLE v ROMONA FRAZIER, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,822.

PEOPLE v FREDDIE FRIEND, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$4,967.

PEOPLE v DIANE FRY, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,530.

PEOPLE v KELLY FUGATE, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$3,107.

PEOPLE v PATRICIA FULLER, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$11,986.

PEOPLE v GALE GADIE, Wayne Circuit, 10/04/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$7,601.

PEOPLE v MICHELLE GARDNER, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$1,201.

PEOPLE v RONALD GARDNER, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,530.

PEOPLE v SHEILA GARLINGTON, Wayne Circuit, 09/25/2001, welfare fraud; plea agreement, sentenced to 3 years probation, 150 hours community service, and

restitution of \$11,044.

PEOPLE v DIEDRA GARRETT, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,454.

PEOPLE v LOREAN GATES (GATIS), Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,636.

STATE OF MICHIGAN, DEPT. OF TREASURY v ROGER GEMMEN, Ottawa Circuit, 11/25/2002, Mr. Gemmen worked and lived in several states but paid income taxes in none. Confronted with Homestead declaration he filed returns and paid Michigan income taxes. Pled to misdemeanor; sentenced to fines and restitution of \$1,950, exclusive of civil tax penalty.

PEOPLE v NANCY GETER, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$7,024.

PEOPLE v REGINA GILLIUM, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,604.

PEOPLE v TERENCE GILMORE, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,830.

PEOPLE v HERMAN J GLASS, Oakland Circuit, 01/07/2001, charged with 4 counts fraudulent insurance acts and 1 ct embezzlement by agent or trustee over \$1,000 but less than \$20,000, pled to 1 count embezzlement, sentenced to 183 days in jail, \$2,913.31 restitution, \$900 costs, \$1,080 supervisory fee, \$60 crime victims fund.

PEOPLE v JAN GNYP, 46th District Court, 12/21/2001, charged with 1 count child sexually abusive activity and 2 counts using a computer to communicate to commit crime. Pled guilty as charged; sentenced 12/21/2001 to 2-20 years in prison.

PEOPLE v KEYA GODDARD, Wayne Circuit, 01/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,606.

PEOPLE v KENNETH CRAIG GOODRICH, Macomb Circuit, 01/03/2002, Blessings Pyramid Scheme. Charged with one count pyramid/chain promotions. Pled guilty to attempted pyramid/chain promotion; sentenced 1/3/2002 to 2 years probation, \$480 court costs, \$40 month oversight costs and restitution (to be determined).

PEOPLE v LARRY GORE, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,824.

PEOPLE v CARMELA GRANDBERRY, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$11,387.

PEOPLE v DANIEL GRASZAK, 36th District Court, 05/21/2002, charged with welfare fraud \$19,554; pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$19,554.

PEOPLE v RHONDA GRAY, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency (MFIA).

PEOPLE v SHIRLEY GRAY, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and

restitution of \$3,727.

PEOPLE v TRACI GRAY, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,686.

PEOPLE v GYPSY GREEN, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,374.

PEOPLE v LISA GREEN, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,311.

PEOPLE v LISA GREEN, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,584.

PEOPLE v ADRIENNE GREER, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$1,998.

PEOPLE v CARLA GRIFFIN, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$11,020.

PEOPLE v ELINOR GRIFFIS, Wayne Circuit, 11/18/2002, welfare fraud of \$15,052; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TERRY KEN GRIFFITH, JR, AKA STOCKSTUD696969, Livingston Circuit, 03/14/2002, charged with one count of child sexually abusive activity and one count using a computer to commit a crime, both 20-year felonies, for arranging a meeting in Hartland, Michigan, to have sex with a 13-year old girl. Pled guilty to child sexually abusive activity; sentenced to 15 mos to 20 years.

PEOPLE v CHRISTOPHER JON GUGGER, Oakland Circuit, 11/27/2001, charged with one count of child sexually abusive activity and one count using a computer to commit a crime, pled guilty and sentenced to 1 year jail, 3 years probation, supervision & court costs. No unsupervised contact with minors, no computer/internet access, and Sexual Offender Registration.

PEOPLE v PAULA GUISE, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,040.

STATE OF MICHIGAN, DEPT. OF TREASURY v MOHAMMED HAQUE, Macomb Circuit, 12/19/2002, Court dismissed w/o prejudice upon Defendant's failure to timely submit a brief.

PEOPLE v LARNA HAIRSTON, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$9,915.

PEOPLE v RONA HALL, Wayne Circuit, welfare fraud of \$2,422; dismissed and approved for recoupment. Case returned to complaining agency, (MFIA).

PEOPLE v TONYA HAMLIN, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2692.

PEOPLE v JOHN HAMMOND, 5th District Court, 05/16/2001, charged with stealing financial transaction device, use of financial transaction device, using a computer to commit a crime; pled guilty on 5/16/01 to Count III (using a computer to commit crime) and was sentenced to 150 days jail, two years probation.

STATE OF MICHIGAN, DEPT OF TREASURY v MOHAMMED HAQUE, Ingham Circuit, 12/19/2002, Tobacco license revocation action. Court dismissed for defendant's failure to properly serve.

PEOPLE v OMAR HARHARA, Wayne Circuit, 03/01/2002, charged with welfare fraud; felony dismissed; approved for recoupment.

PEOPLE v RAWEYA HARHARA, Wayne Circuit, 03/01/2002, charged with welfare fraud; felony dismissed; approved for recoupment.

PEOPLE v CHARLOTTE HARMON, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$3,591.

UNITED STATES OF AMERICA v JEFF HARMON, United States District Court, Eastern District, 03/22/2001, charged with 1 count conspiracy to distribute marijuana, 2 counts of possession with intent to distribute marijuana, 1 count money laundering, pled to one count conspiracy to distribute marijuana; sentenced 3/22/01 to 5 years in federal prison.

PEOPLE v CAROL HARRIS, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,071.

PEOPLE v MARIE HARRIS, Wayne Circuit, 06/20/2002, welfare fraud, \$16,029; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$16,029.

PEOPLE v TINA HARRIS, Wayne Circuit, 08/08/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,995.

PEOPLE v CAMILLA HARRISON, Wayne Circuit, 10/30/2001, 1,774 welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v REGINA HARVARD, Wayne Circuit, 11/14/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$1,525.

PEOPLE v ROSHAWNDA HARVARD, Gratiot Circuit, 10/16/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,348.

PEOPLE v BYRON TERRILL HARVEY, Genesee Circuit, 12/18/2002, Byron Harvey, former Secretary of State employee, engaged in generating and distributing false/forged ID cards and driver's licenses. Harvey charged with 1 count receiving and concealing stolen property. This case dismissed in lieu of guilty plea in 02-10467-fh.

PEOPLE v BYRON TERRILL HARVEY, Genesee Circuit, 12/18/2002, Byron Harvey, former Secretary of State employee, engaged in generating and distributing false/forged ID cards and driver's licenses. Harvey charged with 1 count receiving and concealing stolen property. Pled guilty as charged; sentenced 12/18/02 to 11 months jail, \$60 cvf, \$50 jail processing fee, \$500 supervision fee, \$1,000 costs, 60 months probation.

PEOPLE v RELANDA HARVIN, Wayne Circuit, 12/07/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$11,306.

PEOPLE v MINI HATHAWAY, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TERRY HATHAWAY, Wayne Circuit, Charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA).

PEOPLE v TANYA HAWKINS, Wayne Circuit, 09/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$14,709.

PEOPLE v ANGELA HAYES, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,369.

PEOPLE v LATISHA HEAD, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,561.

PEOPLE v JOHNNIE HEARD, Kalamazoo Circuit, 09/25/2001, welfare fraud of \$2,275; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,275.

PEOPLE v JOHN HEDRICK, Wayne Circuit, 07/26/2002, charged by the High Tech Crime Unit with 1 ct solicitation to manufacture a controlled substance (ghb), dba Centurian Aging Research Laboratory. Pled guilty, sentenced under HYTA to 4 years probation and \$1,000 fine.

PEOPLE v BENJAMIN BYAN HELMS, 56-2 District Court, 11/24/2001, charged with 1 count conspiracy to commit false pretenses over \$100. Benjamin Helms pled guilty to misdemeanor OMUFP under \$100; sentenced 11/24/01 to \$200 fine, \$200 costs, \$50 CVF.

PEOPLE v STANLEY RAYMOND HELMS, Eaton Circuit, 02/28/2002, charged with 1 count false pretenses, 1 count attempted false pretenses, and 1 count conspiracy to commit false pretenses over \$100. Pled guilty to one count false pretenses over \$100; sentenced to \$1,000 fine and costs and \$60 CVF.

PEOPLE v MARCIA HENDERSON, Wayne Circuit, 09/09/2002, welfare fraud \$7,868; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v PATRICIA HENRY, Wayne Circuit, welfare fraud of \$5,027; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DENISE HENRY-DOUGLAS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v ELLA HICKS, Wayne Circuit, 03/05/2002, 7,745 welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,745.

PEOPLE v LAKISHA HICKS, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,358.

PEOPLE v VONDICIA HICKS, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JOSE GILBERTO HIGUERA, Wayne, CC 05/30/2001, charged with 1 count alteration of medical records and 1 count abortion; pled guilty to unlawful alteration of medical records and was sentenced 5/30/2001 to 1 year probation, \$360 probation supervision fee, \$165 court costs and \$60 crime victims fund.

PEOPLE v LATONYA HILL, Wayne Circuit, 11/18/2002, welfare fraud, \$5,252;

dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MONA HILLS, Wayne Circuit, 04/23/2002, welfare fraud of \$1,486; Felony dismissed; FIA approved for recoupment.

PEOPLE v SHANEL HINES, Wayne Circuit, 11/12/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$11,628.

PEOPLE v PATSY HINOJOSA, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,309.

PEOPLE v SHERRI HISSONG, Wayne Circuit, 12/11/2001, pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$9,943.

PEOPLE v INFANY HOLIMAN, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,989.

PEOPLE v DELISA KENYATTA HOLLAND, Wayne Circuit, 09/24/2001, charged with three counts stealing a financial transaction device. Pled guilty to 1 ct of stealing a financial transaction device; sentenced 9/24/01 to 2 years probation, \$330 costs, \$240 oversight fee, restitution.

PEOPLE v DARNETIA HOLLEY, Wayne Circuit, 10/04/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$6,350.

PEOPLE v JANICE HOLLIS, Wayne Circuit, 02/21/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$12,037.

PEOPLE v STEPHANIE HOLMAN, Wayne Circuit, 06/06/2001, welfare fraud of 7,478; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v ROGER ALAN HONDERD, 54-A District Court, 07/05/2001, charged with 10 counts child sexually abusive material and 1 count possession of marijuana. Pled guilty to 2 counts possession of child sexually abusive material; sentenced 7/5/2001 to 90 days in jail, \$200 fine, \$200 costs, \$9, judgment fee, \$25 supervision fee.

PEOPLE v GARLAND HOPKINS, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4,928.

PEOPLE v TARA HOPKINS, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4,928.

PEOPLE v DAVID JOHN HORVATH, Ingham Circuit, 01/02/2002, charged with 1 count conspiracy to commit embezzlement by agent or trustee over \$20,000. Pled guilty as charged on 11/7/2001; sentenced on 1/02/2002 to 60 months probation, 100 hours community service \$60.00 CVF, \$1,800 supervision fee, \$175,757 restitution to the Department of Treasury.

PEOPLE v PAMELA ROSE HORVATH, Ingham Circuit, 01/02/2002, charged with 1 count conspiracy to commit embezzlement by agent or trustee over \$20,000 and 1 count embezzlement by agent or trustee over \$20,000. Pled guilty as charged on 11/7/2001; sentenced on 1/02/2002 to 60 months probation, 100 hours community service \$60.00 CVF, \$1,800 supervision fee, \$175,757 restitution to the Department

of Treasury.

PEOPLE v AARON HOSKINS, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$11,183.

PEOPLE v VONCIA HOSKINS, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$11,183.

PEOPLE v SHARON HOWARD, Wayne Circuit, 06/06/2001, welfare fraud of 4,013; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v PAUL HOWE, 57th District Court, 08/02/2002, charged with 2 counts fraudulent access to computers \$1,000 or more but less than \$20,000. Court Verdict; sentenced to 2 yrs probation, 21 days jail (with 121 days credit). Several probation conditions include \$2499 restitution to two victims, no interest.

PEOPLE v DONALD HUDDLESTONE, 92nd District Court, 08/10/2001, charged with 1 misdemeanor count of assault or assault and battery. Found guilty by jury of assault and battery; sentenced to 90 days in jail following release from prison.

PEOPLE v MONIQUE HUDSON, Wayne Circuit, 11/18/2002, welfare fraud, \$14,556; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v AURELIA HUGHES, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$2,975.

PEOPLE v RENA HUNTER, Wayne Circuit, 07/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$4,147.

PEOPLE v CRYSTAL HURST, Wayne Circuit, 06/21/2002, Welfare fraud of \$4,718; pled and sentenced to diversion status.

PEOPLE v GERTRUDE HUTCHINS-TAYLOR, Wayne Circuit, 12/20/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,133.

PEOPLE v INTERNET WINES & SPIRITS CO (GEORGE RANDALL), Ingham Circuit, 01/20/2000, corporation charged by the HTCUC with 1 count furnishing alcohol to a minor via the internet, corporation pled guilty, sentenced to \$100 fine and \$59 costs.

PEOPLE v DAWN JACKSON, Wayne Circuit, 08/27/2002, charged with welfare fraudco-defendant Bryan Reece; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4,006.

PEOPLE v DIANE JACKSON, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,010.

PEOPLE v MONIQUE JACKSON, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,505.

PEOPLE v DALANDA JAMES, Wayne Circuit, 06/06/2001, welfare fraud of 11,101; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v FELICIA JAMES, Wayne Circuit, 5,149 welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v GERALDINE JAMES, Wayne Circuit, 06/07/2001, charged with one count welfare fraud over \$500 and one count conspiracy to commit welfare fraud. Pled guilty to one count welfare fraud; sentenced 6/7/01 to 2 years probation, \$2,262 restitution to the FIA, \$240 probation supervisory fee, \$60 crime victims fund, 50 hours community service.

PEOPLE v JOHNNY JAMES, Wayne Circuit, 5,149 welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LOUISE JEFFERSON, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v VIRGINIA JEFFERSON, Wayne Circuit, 01/17/2002, welfare fraud of \$7,925; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,925.

PEOPLE v DEBORAH JENKINS, Wayne Circuit, 03/01/2002, charged with welfare fraud; felony dismissed; approved for recoupment.

PEOPLE v GEORGIA JENKINS, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,426.

PEOPLE v LISA JETT, Wayne Circuit, welfare fraud of \$2,397; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BERTHA JOHNSON, Wayne Circuit, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BILL JOHNSON, Wayne Circuit, 11/18/2002, welfare fraud of \$10,309; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v ERNESTINE JOHNSON, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,788.

PEOPLE v HOLLY JOHNSON, Wayne Circuit, 11/18/2002, welfare fraud of \$10,041; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JACQUELINE JOHNSON, Wayne Circuit, 10/04/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$5,781.

PEOPLE v KATHY JOHNSON, Wayne Circuit, 10/30/2001, 11,900 welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$11,900.

PEOPLE v LAURA JOHNSON, Wayne Circuit, 11/18/2002, welfare fraud of \$14,962; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LONNIE JOHNSON, Wayne Circuit, 11/18/2002, welfare fraud of \$14,962; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v PAMALA JOHNSON, Wayne Circuit, 04/23/2002, charged with welfare fraud; Dismissed - By Plaintiff, Felony closed; approved for diversion program.

PEOPLE v ROBERT JOHNSON, Wayne Circuit, 12/21/2001, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v RONALD F JOHNSON, Wayne Circuit, 12/21/2001, charged with Conspiracy to Commit False Pretenses and False Pretenses. Pled guilty 5/7/2001; sentenced 6/4/01.

PEOPLE v TONYA JOHNSON, Wayne Circuit, 11/12/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$3,604.

PEOPLE v TRACY JOHNSON, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,598.

PEOPLE v BETTY JONES, Wayne Circuit, 11/18/2002, welfare fraud, \$5,400; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

STATE OF MICHIGAN, DEPT. OF TREASURY v BILL & GINA JONES D/B/A JONES CYCLE INC, Kent Circuit, 12/05/2002, Jones Cycle was under reporting sales tax. Pled guilty; sentenced 12/5/02 to 5 years probation, \$25,289.24 restitution to Treasury and \$78,000 restitution to other victims.

PEOPLE v CRYSTAL JONES, Wayne Circuit, 07/18/2001, welfare fraud of \$4,948; pled guilty to welfare fraud; sentenced to \$4,948 restitution, 3 years probation and 150 hours community service.

PEOPLE v GWENDOLYN JONES, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v HELEN JONES, Wayne Circuit, 12/11/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,782.

PEOPLE v LACAROL JONES, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$3,549.

PEOPLE v LORA JONES, Wayne Circuit, 11/14/2002, Welfare fraud of \$2,983; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$2,983.

PEOPLE v NONA JONES, Wayne Circuit, 12/04/2001, pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4,253.

PEOPLE v PATRICIA JONES, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v RHONDA JONES, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,868.

PEOPLE v BEVERLY JORDAN, Wayne Circuit, Charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LAWANDA JORDAN, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$7,072.

PEOPLE v THERESA JORDAN, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,466.

PEOPLE v VALERIE JORDAN, Wayne Circuit, welfare fraud; dismissed and

approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LUCRETIA JOURNEY, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$9,627.

PEOPLE v WILMA JOYNER, Wayne Circuit, 09/25/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,604.

PEOPLE v JULIE'S PAWN SHOP OF FLINT LTD, Genesee Circuit, 06/21/2002, Corporation charged in our gun "scarecrow" operation with 1 count of sale of firearms/weapons to a felon. Pled no contest as charged; sentenced to \$500 fine.

PEOPLE v DAVID WARREN KATZMAN, Oakland Circuit, 11/02/2001, charged with 1 count of 2nd degree money laundering for operating video poker machines at truck stops, defendant pled guilty to 1 ct of racketeering in Eaton County Circuit Court case, Oakland County case dismissed.

PEOPLE v DAVID WARREN KATZMAN, Eaton Circuit, 12/01/2002, charged with 1 count of racketeering and 1 ct conspiracy to gamble. Pled guilty to racketeering; sentenced to probation and ordered to divest himself of \$50,000 in cash already seized plus pay another \$50,000 in forfeited proceeds.

UNITED STATES OF AMERICA v ROBERT KAZMERSKI, United States District Court, Eastern District, 12/11/2002, charged with 1 ct conspiracy to distribute marijuana, 1 ct distribution of marijuana. Pled and sentenced in USDC.

PEOPLE v MARK ROBERT KELLAPOURES, Macomb Circuit, 04/12/2002, charged with one count attempted false pretenses in the Donna Zeller matter. Pled guilty to attempted false pretenses over \$1,000 and less than \$20,000; sentenced 4/12/02 to 18 months to 5 years in prison to run concurrent with federal case. Must report to federal prison in Maryland on April 16, 2002.

PEOPLE v EMILJAN KELLEZI AKA EMILJANKOA181, Ingham Circuit, 07/24/2002, charged with one count child sexually abusive activity and one count using computer to commit a crime. Pled guilty to child sexually abusive commercial activity; sentenced to 21-240 months prison.

PEOPLE v LINDY KELLOGG, Wayne Circuit, 09/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,354.

PEOPLE v GWENDA KELLUM, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$20,749.

PEOPLE v RICHARD ALLEN KENDALL, Kalamazoo Circuit, 01/07/2001, Blessings Pyramid scheme. Pled guilty to 1 count of attempted pyramid/chain promotion on 9/10/01; sentenced on 11/01/01 to 6 months probation, \$350 costs, \$2,000 restitution, victims rights \$60, and supervision fee \$180.

PEOPLE v KIMBERLY KENYON, Wayne Circuit, 11/18/2002, welfare fraud \$2,357; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

UNITED STATES OF AMERICA v ANTHONY KEST, United States District Court, Eastern District, 12/11/2002, charged with 1 ct conspiracy to distribute marijuana, 1 ct distribution of marijuana, 2 cts money laundering. Pled and sentenced in USDC.

PEOPLE v JEHANZEB KHAN, Oakland Circuit, 10/01/2001, charged with one count child sexually abusive activity and one count communicating with a person over a computer to commit the crime of child sexually abusive activity. Pled to count

I, sentenced to three years probatiion, 11 mo. 29 days 23 hours jail.

PEOPLE v CHARLENE KIDD, Wayne Circuit, 11/14/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$7,000.

PEOPLE v BRENT MARSHALL KILMER, Kent Circuit, 02/13/2001, Blessings Pyramid Scheme, charged with 1 count promoting pyramid/chain schemes; this case dismissed per plea in related case.

PEOPLE v BRENT MARSHALL KILMER, Kent Circuit, 02/13/2001, Blessings Pyramid Scheme, charged with 3 counts promoting pyramid/chain schemes, pled guilty to 1 count attempt pyramid/chain promotions, sentenced to 24 months probation.

PEOPLE v THOMAS BRENT KILMER, Kent Circuit, 02/13/2001, Blessings Pyramid Scheme, charged with 5 counts promoting pyramid/chain schemes, pled guilty to 1 count attempted pyramid/chain promotion, sentenced to 24 months probation.

PEOPLE v DOROTHY KING, Wayne Circuit, 02/21/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,732.

PEOPLE v SUBRENNIA KIRKLAND, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,349.

PEOPLE v RATREE KNOX, Wayne Circuit, 06/01/2002, welfare fraud of \$1,311; Dismissed - By Plaintiff, approved for recoupment

PEOPLE v MICHAEL WAYNE KOMEJAN, Barry Circuit, 12/20/2001, charged with Criminal Enterprises, Distributing or Promoting Child Sexually Abusive Material, Using Computers to Commit a Crime. Sentenced to three years' imprisonment on one count of RICO, three counts of distribution of child sexually abusive material, and 1 count of using a computer to commit a crime. The Court also ordered defendant to forfeit \$18,760 in criminal proceeds from the enterprise.

PEOPLE v BONNIE KRAUSE, Macomb Circuit, 08/07/2002, Child Sexually Abusive Activity and Distribution of Child Pornography. charged with 1 count Use of a Computer to Communicate to Commit a Crime, 1 count Attempted CSC II, and 3 counts Possession of Child Sexually Abusive Material. Pled guilty to use of a computer to commit a crime; sentenced 8/7/02 to 12 months in jail, 3 years probation, register as a sex offender, \$60 crime victim's rights fee, no alcohol/drugs, must stay 500 feet from schools and playgrounds.

PEOPLE v JASON A KRETIN, Monroe Circuit, 05/18/2001, charged with two counts money laundering, 1st degree, pled guilty to Count 2 (1st degree money laundering); sentenced on 5/18/01 to 1 1/2 - 20 years.

PEOPLE v CHANELE LABARRIE, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,925.

PEOPLE v DOMINIQUE LAMBERT, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,233.

PEOPLE v DESIRE LANDERS, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$3,237.

PEOPLE v NAKISA LANE, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and

restitution of \$4,608.

PEOPLE v KELLENE LAWSON, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,283.

PEOPLE v ANGELA LAYE, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,234.

PEOPLE v ANITA LEE, Wayne Circuit, 11/14/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution \$10,792.

PEOPLE v LUBERTHA LEE, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,617.

PEOPLE v JEANETTE LEFLORE, Wayne Circuit, 10/11/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,941.

PEOPLE v SUSAN LEMMON, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,019.

PEOPLE v ROSA LESUEUR, Wayne Circuit, 06/01/2002, welfare fraud of \$6,700; dismissed and approved for recoupment.

PEOPLE v DEBORAH LEWIS, Wayne Circuit, 06/21/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$4,897.

PEOPLE v DIANE LEWIS, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,877.

PEOPLE v LATONYA LEWIS, Wayne Circuit, 06/06/2001, welfare fraud of 6,044; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v MARGARET LEWIS, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$22,336.

PEOPLE v YANELL LEWIS, Wayne Circuit, 11/14/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$1,181.

PEOPLE v ROBIN LIGHTFOOT, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5063.

PEOPLE v LENNELL LOGAN, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,761.

PEOPLE v LYNNETTA LOGAN, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,233.

PEOPLE v SIMA SHEIKH, Wayne Circuit, 09/23/2002, charged with conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info. Pled guilty; sentenced to probation and restitution.

PEOPLE v NAEEM UDDIN, Wayne Circuit, 09/23/2002, charged with conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info. Pled guilty; sentenced to probation and restitution.

PEOPLE v YOUNUS ALI BAIG, Wayne Circuit, 09/23/2002, charged with conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info. Pled guilty; sentenced to probation and restitution.

PEOPLE v JAWWAD ALI BAIG, Wayne Circuit, 09/23/2002, charged with conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info. Pled guilty; sentenced to HYTA and restitution.

PEOPLE v ZUQAIR ALI, Wayne Circuit, 09/23/2002, charged with conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info. Pled guilty; sentenced to probation and restitution.

PEOPLE v TIAYYIBAH ZAMAN, Wayne Circuit, 09/23/2002, charged with conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info. Pled guilty; sentenced to HYTA and restitution.

PEOPLE v HARVEY, DINEQUA, Wayne Circuit, 12/04/2002, charged with various counts of conspiracy to commit a crime, using a computer with intent to defraud, obtaining personal identity information with intent to unlawfully use info, et al. Pled guilty to misdemeanor and was sentenced to 1-year delayed sentence.

PEOPLE v JUSTINE LONG, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,408.

PEOPLE v THERESA LONG, Wayne Circuit, 04/23/2002, charged with welfare fraud; Dismissed - By Plaintiff, Felony dismissed; FIA approved for recoupment.

PEOPLE v SHERRY LOWE, Wayne Circuit, 06/01/2002, welfare fraud of \$802; dismissed and approved for recoupment

PEOPLE v NELSON LUCAS, Wayne Circuit, 06/06/2001, welfare fraud of 7,216; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v LUXOR LIQUOR, Wayne Circuit, 01/28/2002, charged with one count food stamp fraud and one count conspiracy to commit food stamp fraud for illegal food stamp trafficking.

PEOPLE v JEFFERY THOMAS LYON, 89th District Court, 06/06/2002, charged with OUIL 2nd. Defendant pled guilty to OUIL 2 and was sentenced to 45 days (tether), fines and costs.

PEOPLE v GREG LYSZ, United States District Court, Eastern District, charged with federal mail fraud and wire fraud. Pled guilty; sentenced 3/27/02 to 21 months and participate in residential drug treatment program.

PEOPLE v JODY MALUCHNIK, Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,548.

PEOPLE v PAULA MANDELL, Wayne Circuit, 09/13/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,999.

PEOPLE v SANDRA ALFREDA MANNS, Jackson Circuit, 07/25/2001, charged with 1 count conspiracy to commit forgery and 1 count conspiracy to commit uttering and publishing. Manns pled no contest as charged; sentenced 7/25/2001 to 2-15 years.

PEOPLE v BERTHA MAPPS, Wayne Circuit, 11/18/2002, welfare fraud of \$3,251; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SHARON MARTIN, Wayne Circuit, 11/01/2002, charged with welfare fraud; dismissed and approved case for recoupment and returned back to the MFIA.

PEOPLE v TAMARA MARTIN, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,742.

PEOPLE v CHANDRA MASON, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,686.

PEOPLE v HOPE MASON, Wayne Circuit, 12/04/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$16,480.

PEOPLE v JAMES ROBERT MAST, Kent Circuit, 07/18/2002, charged with 1 count Offer or Sell Pyramid/Chain Promotions. Pled guilty to Attempted Pyramid/Chain Promotion-Offer or Sell; sentenced 7/18/2002 to \$1,500 restitution, \$600 court costs, \$40 month supervision fee, \$60 CVF, 2 years probation.

PEOPLE v MONIQUE MATTHEWS, Wayne Circuit, 11/18/2002, 5,401 welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LAKISHA MAXWELL, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,962.

PEOPLE v LESLIE MAYS, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,664.

PEOPLE v LISA MCCAIN, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,404.

PEOPLE OF THE UNITED STATES v RICHARD MCCARTY, United States District Court, Western District, 06/14/2001, charged by US Attorney; we took over case. Defendant sentenced to 1 year probation; \$3000 fine on June 14, 2001 in W.D. Michigan District Court.

PEOPLE v STEPHANIE MCCLAMMY, Wayne Circuit, 09/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,293.

PEOPLE v PAULA MCCLINE, Wayne Circuit, 07/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$9,451.

PEOPLE v LANELL MCCOGGLE, Wayne Circuit, 09/25/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$12,699.

PEOPLE v DAWANDA MCCRAY, Wayne Circuit, 08/30/2001, pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$3,185.

PEOPLE v MICHELE MCCULLOUGH, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$11,954.

PEOPLE v LORRIE MCFADDEN, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$14,346.

PEOPLE v WILLIAM MCGEE, Wayne Circuit, welfare fraud of \$1,920; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MICHAEL COREY MCKARGE, Washtenaw Circuit, 03/28/2002, charged with various counts of possession with intent to deliver cocaine, conspiracy, firearms violations. Pled guilty to one count felony firearm and one count possession with intent to deliver cocaine; sentenced to 1-20 years, \$60 crime victims fund, \$150 forensic lab tests.

PEOPLE v WILLIAM MCNETT, Kalamazoo Circuit, 02/05/2001, charged with 1 count racketeering; pled guilty to one count of racketeering; sentenced 2/5/01 to 3-20 years imprisonment to run concurrent with federal sentence, \$60 crime victims fund.

PEOPLE v ROSE MCNORIELL, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v WILLIE MCNORIELL, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,216.

PEOPLE v KIMBERLY MCQUEEN, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MARY MEDINA, Wayne Circuit, 09/09/2002, charged with welfare fraud; dismissed and approved case for recoupment and returned case back to the MFIA.

PEOPLE v RONALD MERRITT, Wayne Circuit, 04/26/2001, charged with 1 ct food stamps fraud over \$1,000; Pled guilty to 1 count food stamps fraud; sentenced 4/26/01 to 3 yrs probation and \$1000 fines.

PEOPLE v CLIFFORD MERRIWEATHER, Wayne Circuit, 05/21/2001, charged with Conspiracy to Commit False Pretenses and False Pretenses. See also Pv Ronald Johnson, Pv Joseph Hall, Pv Donald Benson, Pv Leroy Flanz. Pled guilty to 1 count conspiracy to commit false pretenses; sentenced to \$9,600 restitution.

PEOPLE v GERRI MEYER, Wayne Circuit, 06/06/2001, welfare fraud of \$8,122; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v SHAREE MILLER, Genesee Circuit, 01/29/2001, internet murder case handled jointly with the Genesee County Prosecutor, found guilty by jury of conspiracy to commit premeditated murder and 2nd degree murder, sentenced 1/29/01 to life imprisonment on the conspiracy to murder count and 54-81 years on the 2nd degree murder count.

PEOPLE v SONYA MILLS, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$10,193.

PEOPLE v VALERIE MINOR, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,266,

PEOPLE v ARTHUR MITCHELL, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,664.

PEOPLE v CRYSTAL MITCHELL, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JACQUELINE MITCHELL, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,664.

PEOPLE v LAMARA MITCHELL, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,374.

PEOPLE v LORI MITCHELL, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$7,427.

PEOPLE v MIRANDA MITCHELL, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,602.

PEOPLE v VALMARIE MITCHELL, Wayne Circuit, 06/25/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$7,716.

PEOPLE v YULANDA MITCHELL, Wayne Circuit, 12/03/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$7,989.

PEOPLE v EMILY MIXON, Wayne Circuit, 06/06/2001, welfare fraud of 7,221; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v TRENA MOBLEY, Wayne Circuit, 06/06/2001, welfare fraud of 6,557; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v DIANE MODOCK, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$16,154.

PEOPLE v MINDY MOGGEL, Wayne Circuit, 07/18/2001, welfare fraud of \$4,546; pled guilty to welfare fraud; sentenced to \$4,546 restitution, 3 years probation and 150 hours of community service.

PEOPLE v CLYDE MOORE, Wayne Circuit, 01/02/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,301.

PEOPLE v MARY MOORE, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,397.

PEOPLE v SHARITA MOORE, Wayne Circuit, 04/02/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,211.

PEOPLE v YOLANDA MOORE, Wayne Circuit, 06/06/2001, welfare fraud of 7,586; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v REBECCA MORGAN, Wayne Circuit, charged with welfare fraud;

dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v YVONNE MORGAN, Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$12,360.

PEOPLE v J.A. MORRIN CONSTRUCTION COMPANY, Monroe Circuit, 10/10/2002, charged with 1 count involuntary manslaughter and 1 count MIOSHA violation-causing employee death. Pled guilty to involuntary manslaughter; sentenced to 5 years probation, \$7,500 fine, \$750 costs, \$148,593.45 restitution, \$60 CVF, supervision fee of \$8,100.

PEOPLE v JAMES MORRIN JR, Monroe Circuit, 10/10/2002, charged with 1 count involuntary manslaughter and 1 count MIOSHA violation-causing employee death. Pled guilty to MIOSHA violation, causing employee death; sentenced to 3 years probation, \$500 fine, \$450 costs, \$50 CVF, \$3,600 supervision fee.

PEOPLE v BARRY MORRIS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JENNIFER MORRIS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v VANESSA MORRIS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v HAROLD MORRISON, Washtenaw Circuit, 02/08/2001, charged with 3 counts extortion. Morrison is a prisoner at the Huron Valley Mens' Facility who wrote letters to Prosecutors McBain and Dunnings and Judge Buhll threatening the men and their families. Morrison was found guilty by a jury on all three counts of extortion; sentenced 2/8/2001 to 160 months to 20 years to be served consecutive to current sentence.

PEOPLE v KIM MOSLEY, Wayne Circuit, 09/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,608.

PEOPLE v ANTOINETTE MOTLEY, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,255.

PEOPLE v SONYA MUCKLE, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,120.

PEOPLE v SABINA MUNOZ, Wayne Circuit, 07/18/2001, welfare fraud of \$7,973; pled guilty to welfare fraud; sentenced to \$7,973 restitution, 3 years probation and 150 hours of community service.

PEOPLE v TAMICKO MURIEL, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,144.

PEOPLE v VENUS MURRAY, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,686.

PEOPLE v KAREN NAILER, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4535.

PEOPLE v BRIGETTE NEAL, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,057.

PEOPLE v FELISHIA NEAL, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v FRANK W. NEDOCK, DDS, Oakland Circuit, 06/15/2001, charged with 1 count manufacturer/delivery of prescription forms and 1 count unauthorized practice of health profession. Pled guilty to official prescription form delivery and the unauthorized practice of a health professional; sentenced 6/15/2001 to \$1,000 fine, \$600 costs, \$720 supervision fee, \$60 crime victims fund, 2 years probation, 100 hours community service.

PEOPLE v GLORIA NELSON, Wayne Circuit, 07/18/2001, welfare fraud of 4,057; pled guilty to welfare fraud; sentenced to \$4,057 restitution, 3 years probation and 150 hours community service.

PEOPLE v LATONYA NELSON, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,399.

PEOPLE v RENEE NELSON, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,760.

PEOPLE v WILFRED NELSON, Ingham Circuit, 03/29/2000, charged with forgery/counterfeiting lottery ticket, alternative attempted obtaining money under false pretenses, and perjury. Found guilty by jury of perjury; sentenced 3/29/2000 to 6-30 years. Motion for resentencing granted on 6/5/01. New sentence: 6-22 1/2 years.

PEOPLE v STANLEY SCOTT NESEN, Montcalm Circuit, 06/20/2001, charged with 2 counts CSC 1st degree and 6 cts CSC 2nd degree. Pled guilty to 1 count CSC 1st degree with person under 13 and 1 count CSC 2nd; sentenced 6/20/2001 to 3-20 years in prison and \$150.00 assessment for forensic lab test.

PEOPLE v JAMES ROBERT NEWMAN, Kalamazoo Circuit, 07/27/2001, charged in the Blessings Pyramid Scheme with two counts pyramid/chain promotions, pled guilty to attempted pyramid chain; sentenced to \$3,500 restitution, \$350 costs, \$687 attorney fees, \$60 CVF, \$360 supervision fee, 12 months probation.

PEOPLE v LATOYA NEWMAN, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,189.

PEOPLE v LASANDRA NEWSOM, Wayne Circuit, 07/27/2001, welfare fraud of \$9,005; pled guilty to welfare fraud, sentenced to \$9,005 restitution, 3 years probation and 150 hours community service.

PEOPLE v MICHAEL NGUYEN, Oakland Circuit, 01/03/2001, charged with 1 count receiving & concealing stolen property in excess of \$20,000, 1 count using a computer to commit a crime and 1 count conspiracy; pled guilty; sentenced to 18 months probation, 100 hours community service, restitution to be determined by probation department, \$450 court costs, \$60 crime victims fund, maintain employment, no contact with co-defendant.

PEOPLE v THANH NGUYEN, Oakland Circuit, 01/03/2001, charged with 1 count receiving & concealing stolen property in excess of \$20,000, 1 count using a computer to commit a crime and 1 count conspiracy; pled guilty, sentenced to 2 years probation with 10 months in jail, to be suspended after 3 months and then tether for last 6 months, 100 hours community service, restitution to be determined by

probation department, maintain employment, no contact with co-defendant.

PEOPLE v LOMENTHA NIBLETT, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,747.

PEOPLE v MICHAEL NOBLE, Wayne Circuit, 07/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$1,216.

PEOPLE v NORTHWEST SHOOTERS AND WOODSTOVE SUPPLY INC, Muskegon Circuit, 10/09/2001, Corporation charged in our gun "scarecrow" operation with 2 counts of sale of firearms/weapons to a felon. Pled guilty to 1 count sale of firearm to a felony; sentenced to 1 year probation, \$1,500 fine, and ordered employee training program.

PEOPLE v JESSEPHINE NORTON, Wayne Circuit, 06/01/2002, welfare fraud of \$626; Dismissed - By Plaintiff, approved for recoupment

PEOPLE v MICHAEL O'BRIEN, Genesee Circuit, 01/25/2002, charged with six counts violation of the Blue Sky Laws-Fraudulent Schemes/Statements. Pled guilty to 2 counts; sentenced 1/17/02 to 6-10 years in prison and \$60 crime victims fund.

PEOPLE v ADRENA OWENS, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,112.

PEOPLE v TAMIKA PACK, Wayne Circuit, 09/25/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,760.

PEOPLE v LATRICIA PAIGE, Wayne Circuit, 02/21/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,264.

PEOPLE v NICOLE PANNELL, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,410.

PEOPLE v TRACY PARKER, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$4,861.

PEOPLE v MARK PARNELL, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v QUINTELLA PARNELL, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BARBARA PATRICK, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$5,243.

PEOPLE v JOSHNA PATTILO, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,854.

PEOPLE v ALICIA PATTON, Wayne Circuit, 11/12/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$10,744.

PEOPLE v ALICIA TRACY WHITE PATTON, Wayne Circuit, 11/12/2002, charged with 1 count welfare fraud over \$500 and 1 count welfare (Failure to Inform)

over \$500; pled guilty; sentenced to 3 years probation, 150 hours community service, and restitution.

PEOPLE v BERTHA PEARSON, Wayne Circuit, 11/18/2002, welfare fraud of \$5,724; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CHARLENA PEOPLES, Wayne Circuit, 06/06/2001, welfare fraud 8,022; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v PAMELA PERKINS, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,975.

PEOPLE v PATRICK OLIVER PERRY, Wayne Circuit, 01/31/2002, charged with 2 counts of delivering/manufacturing 50-225 grams of cocaine and 1 count of delivery/manufacture of 225-650 grams of cocaine. Pled guilty to 1 count delivery/manufacture of 225-650 grams of cocaine; sentenced to 27-240 months in prison.

PEOPLE v ANITA PETTWAY, Wayne Circuit, 12/21/2001, welfare fraud, \$14,383; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v MICHAEL PHILLIPS, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,333.

PEOPLE v PATRICIA PHILLIPS, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$54,383.

PEOPLE v SARAH PHILLIPS, Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$1,210.

PEOPLE v TONYA PIERCE, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TINA PINSON, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TRACY PITTS, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4,274.

PEOPLE v ADRIAN POGUE, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,188.

PEOPLE v MARIA PORTER, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,863.

PEOPLE v PAMELA PORTER (RICE), Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,579.

PEOPLE v VALERIE PORTER, Wayne Circuit, 10/04/2001, welfare fraud case; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$5,542.

PEOPLE v DENISE POSEY, Wayne Circuit, 11/18/2002, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v ANGIE POWELL, Wayne Circuit, 06/06/2001, Welfare fraud 10,312; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v RENALD POWELL, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$7,222.

PEOPLE v CAROLYN PRITCHARD, Wayne Circuit, 03/19/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,683.

PEOPLE v ANGERLINE PRITCHETT, Wayne Circuit, 06/01/2002, welfare fraud of \$885; Dismissed - By Plaintiff, approved for recoupment

PEOPLE v VALERIE PRYOR, Wayne Circuit, 06/06/2001, welfare fraud of 5,618; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v IYAD FAISAL-SALIM QASHAM, 15th District Court, 05/22/2002, charged by the Washtenaw County prosecutor with 1 count domestic violence for assault his wife. AG handling case because of prosecutor conflict. Pled as charged and sentenced to 24 months probation, 93 days jail (15 now; rest suspended on successful completion of probation), \$575 probation oversight fee, \$369 fines and costs, 52 weeks ADA program, no alcohol or drugs, no weapons, no threatening behavior.

PEOPLE v MICHELLE RADFORD, Wayne Circuit, 09/25/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,667.

PEOPLE v SUSAN MARGARET RAMOS, Eaton Circuit, 06/20/2002, charged with 1 count embezzlement by public official and 1 count uttering and publishing. Ramos pled guilty to 1 count uttering and publishing; sentenced 6/20/02 to 18 months probation, mental health program, 30 hours community service, \$250 fine, \$100 costs, \$688.66 restitution, \$60 CVF.

PEOPLE v GEORGE RANDALL (NTERNET WINES & SPIRITS CO), 30 Ingham, 01/20/2000, charged with 1 ct selling/furnishing alcohol to a minor via the internet. Judgment - Consent, case against individual defendant dismissed after he signed assurance of discontinuance; corporation pled.

PEOPLE v SHELLY RANDLE, Wayne Circuit, 11/18/2002, welfare fraud \$4,139; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v ROSALINDA RAY, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,122.

PEOPLE v BRYAN REECE, Wayne Circuit, 08/27/2002, charged with welfare fraudco-defendant Dawn Jackson; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$4,428.

PEOPLE v CHARLES REED, Wayne Circuit, 12/18/2001, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$7,427.

PEOPLE v KIMBERLY REED, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$4,723.

PEOPLE v SHARON REED, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,322.

PEOPLE v SHEMEKA REED, Wayne Circuit, 01/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,689.

PEOPLE v MICHELLE REID, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,444.

PEOPLE v JANICE REYES, Wayne Circuit, 06/06/2001, welfare fraud of 4,438; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v JUAN REYES, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,283.

PEOPLE v RUSSELL RICE, Wayne Circuit, 06/04/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v CHARMESE RICHARDSON, Wayne Circuit, 02/21/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,123.

PEOPLE v KIMBERLY RICHARDSON, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,281.

PEOPLE v LATONYA RIGGS, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,602.

UNITED STATES v FRANKLIN RILEY, USDC-ED, 11/30/2001, federal grand jury issued a federal indictment against Franklin Riley for one count of conspiracy to distribute marijuana. Pled guilty as charged; sentenced to 5 years in federal prison.

PEOPLE v DARNELL WESTLEY RITCHIE, Washtenaw Circuit, 12/11/2001, FCMLS case charging various counts of possession with intent to deliver cocaine, conspiracy, and firearms violations. Dismissed as defendant has been federally indicted on same offenses.

PEOPLE v ERIK EUGENE RIVERA, Berrien Circuit, 04/15/2002, charged with conducting criminal enterprise. Pled guilty to one count conducting criminal enterprise; sentenced 4/15/2002 to 87-240 months, \$12,534.47 restitution, \$60 crime victims fund, and \$60 DNA fee.

PEOPLE v GUSSIE ROBERTSON, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JENNIFER ROBINSON, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,899.

PEOPLE v LANIECE ROBINSON, Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,782.

PEOPLE v YVETTE ROBINSON, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,655.

PEOPLE v FRED ROSEN, 55th District Court, 01/31/2001, charged with 1 count selling/furnishing alcohol to a minor through the internet. See also: People v Sam's Wines & Liquor, Inc. Judgment - Consent, defendant signed assurance of discontinuance, charges dismissed.

PEOPLE v ROBYN ROSENOGLE, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,749.

PEOPLE v STACEY ROSS, Wayne Circuit, 06/06/2001, welfare fraud 10,691; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v TRACY ROSS, Wayne Circuit, 02/02/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,861.

PEOPLE v ANGELA ROWLANDS, Wayne Circuit, 08/08/2002, charged with welfare fraud; see also Pv John Rowlands; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,363.

PEOPLE v JOHN ROWLANDS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v FELIPI RUIZ-TURON, Kent Circuit, 04/24/2001, Blessings Pyramid Scheme. Charged with 1 count promoting pyramid/chain schemes; pled guilty to attempted pyramid chain; sentenced 4/24/2001 to \$1,000 fine, \$1,000 costs, \$6,000 restitution, \$60 crime victims fund, \$720 oversight fee, 24 months probation.

PEOPLE v ALLAN RUSSCHER, Allegan Circuit, 08/15/2002, charged with 1 count manufacturer/deliver prescription forms and 1 count intentionally placing false information on medical record. Defendant pled to Count II, manufacture/delivery of prescription forms; sentenced to \$1,000 court costs, \$60 CVF, \$60 DNA, 36 months probation, 6 months tether, \$1,080 probation oversight fee.

PEOPLE v JOHN SHERMAN RUSSELL, Kent Circuit, 12/01/2002, charged with 1 count possession with intent to deliver controlled substance, methamphetamine. Pled guilty; sentenced to probation.

PEOPLE v ROLSEYLEE RUSSELL, Wayne Circuit, 06/25/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$14,501.

PEOPLE v BRIAN SALCEDO, Wayne Circuit, 06/11/2001, charged with 1 count unauthorized altering, damaging, destroying or otherwise using services of a computer over \$1,000 but less than \$20,000. Pled guilty; sentenced 12/11/00 to HYTA, 3 years probation, \$3,649 restitution, \$1,140 court costs, cyberethics statement accepted 6/2001.

PEOPLE v SAM'S WINES & LIQUOR INC, 55th District Court, 01/31/2001, charged with 1 count selling alcohol to a minor through the internet; Judgment - Consent, defendant signed assurance of discontinuance; charges dismissed.

PEOPLE v HOLLI SANDERS, Wayne Circuit, 11/18/2002, welfare fraud of \$2,611; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LISA SANDERS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SAVENIA SAUNDERS, Wayne Circuit, 01/15/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community

service, and restitution of \$13,091.

PEOPLE v ALESIA SAVAGE, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,782.

PEOPLE v CHARLES ERNEST SCHAUB, Clare Circuit, 05/09/2001, charged with 1 count conspiracy to commit arson and 3 counts arson of real property. Found guilty by jury of conspiracy to commit arson; sentenced 4/2/01 to 5-20 years.

PEOPLE v RANDOLPH KEVIN SCHAUB, Clare Circuit, 05/09/2001, charged with 1 count conspiracy to commit arson and 4 counts arson of real property. Found guilty by jury of conspiracy to commit arson, sentenced 4/2/01 to 4 yrs, 18 months to 15 years.

PEOPLE v LATONYA SCOTT, Wayne Circuit, 06/06/2001, welfare fraud 5,937; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v PAMELA SCOTT, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v YOLANDA SEATON, Wayne Circuit, 06/04/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TOYA SEWELL, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5960.

PEOPLE v SHANTITIA SHAHID, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,861.

PEOPLE v BARBARA SHAHJAHAN, Wayne Circuit, 11/18/2002, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v PATRICIA SHANNON, Wayne Circuit, 11/18/2002, welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SHARON ANN SILER AKA SHARON DENISE SILER, Wayne Circuit, 06/18/2001, charged with 4 counts forgery and 4 counts uttering and publishing. Pled guilty to 2 counts of forgery; sentenced 6/18/01 to 2 years probation, \$2,119 restitution, \$330 fine, \$60 CVF, maintain employment.

PEOPLE v PAUL SHARP, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,288.

PEOPLE v LATISHA SHAW, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$5,402.

PEOPLE v DUSTY SHELTON, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,288.

PEOPLE v VIVIAN SHELTON, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,667.

PEOPLE v CYNTHIA SHINES, Wayne Circuit, 12/06/2001, charged with welfare

fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,017.

PEOPLE v RENEE SHOWS, Wayne Circuit, 06/06/2001, welfare fraud of 6,245; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v MEGAN SIMMONS, Wayne Circuit, 06/06/2001, welfare fraud of 3,351; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v TARA SIMMONS, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,083.

PEOPLE v THELMA SIMMONS, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$8,017.

STATE OF MICHIGAN, DEPARTMENT OF TREASURY v ROBERT PHILIP SIMON, 37th District Court, 12/13/2002, Defendant ran a contracting business and neither declared nor paid withholding taxes on his employees behalf. Pled to one count as charged in March of 2001 and was sentenced to restitution.

PEOPLE v CHANDA SIMPSON, Wayne Circuit, 05/21/2002, charged with welfare fraud; pled guilty to welfare fraud; sentenced to 3 years probation, 150 hours community service, and restitution of \$11,768.

PEOPLE v SARAH SIMPSON, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,154.

PEOPLE v TRINA SIMPSON, Wayne Circuit, 04/23/2002, welfare fraud of \$2,546; dismissed and approved for recoupment.

PEOPLE v PAMELA SIMS, Wayne Circuit, 10/09/2002, charged with 1 count welfare fraud. Consolidated with Pv Monica Bolden. Per plea agreement in co-defendant's case, this case dismissed.

PEOPLE v SHAY DEAN SIMS, Oakland Circuit, 06/25/2002, charged with 6 counts of delivery of a controlled substance-ecstasy and 2 counts of delivery controlled substance-cocaine. Pled guilty to 2 counts delivery/manufacture controlled substance; sentenced to lifetime probation, jail time served, \$2,150 restitution, \$1,500 costs, \$6,000 supervision fee, \$60 cvf, \$150 lab fee, community service.

PEOPLE v CYNTHIA SMITH, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,284.

PEOPLE v DAMITA SMITH, Wayne Circuit, 03/05/2002, welfare fraud \$3,139; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,139.

PEOPLE v DARLENE SMITH, Wayne Circuit, 10/30/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,307.

PEOPLE v EVETT SMITH, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JENNIFER SMITH, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v KATRENA SMITH, Wayne Circuit, 06/06/2001, welfare fraud of 5,187; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v LAQUETTA SMITH, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$7,178.

PEOPLE v MALETIA SMITH, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,617.

PEOPLE v SCOTT ALLAN SMITH AND WORLDWIDE SPORT TRAVEL, INC., Washenaw Circuit, 09/27/2001, charged with 3 counts obtaining money under false pretenses; plea agreement Smith will plead to a misdemeanor in exchange Worldwide Corp. has been charged with the felony. Pled guilty to 1 count false pretenses over \$100 and 1 count false advertising; sentenced to 30 days jail, 2 years probation, \$46,896 restitution, \$500 fine, \$560 costs, \$60 CVF, \$720 probation oversight fee.

PEOPLE v SHANNON SMITH, Wayne Circuit, 09/25/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$15,981.

PEOPLE v SHAUNDRA SMITH, Wayne Circuit, 04/23/2002, welfare fraud of \$6,167; Dismissed - By Plaintiff, Felony dismissed; FIA approved for recoupment.

PEOPLE v TRACY SNOWDEN-SANDERS, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,465.

PEOPLE v DEVONNA LAUREEN SNOWDEN-CRILE, Court of Appeals, 10/31/2000, charged with 6 counts criminal sexual conduct third for sexually assaulting a 14 year old student who was her teacher's aide. Pled guilty 9/30/99 to 2 counts CSC 2nd degree; sentenced 12/14/99 to 3-15 years, \$60 CVF, \$150 assessment for forensic lab tests.

PEOPLE v STEVEN TIMOTHY SPEARS, Oakland Circuit, 01/23/2002, charged with 3 counts of delivery of a controlled substance-ecstasy, pled guilty to 1 count delivery/manufacture of controlled substance; sentenced to 90 days in jail w/work release, \$875 restitution, \$600 costs, \$60 cvf, \$150 lab fee, 2 years probation.

PEOPLE v ROBERT SPENCER, Wexford Circuit, 06/27/2002, charged with 5 counts of embezzlement by public official over \$50.00. Pled guilty to one felony and one misdemeanor on 2/19/02. Sentenced 6/27/02 to 90 days in jail, \$38,138.82 restitution, \$60 CVF, \$300 court costs, \$60 DNA testing, \$20 per month probation oversight fee, 24 months probation.

PEOPLE v MELVIN RAY STANLEY, Kent Circuit, 10/15/2001, charged with one count possession with intent to deliver controlled substance-ecstasy and one count habitual offender, second offense notice; dismissed by AG because Defendant has also been indicted federally. AG dismissed case because defendant can get a higher sentence for the same crime in federal system.

PEOPLE v REGINA STARKS, Wayne Circuit, 06/06/2001, welfare fraud of 8,684; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v DAVID STEINER, charged with 1 count distributing and promoting child sexually abusive activity and 14 counts possession of child sexually abusive material. Found guilty by jury of 3 counts possession of child pornography; sentenced 6/26/01 to 12 months in jail, \$60 CVF.

PEOPLE v ALETHA STEWART, Wayne Circuit, 12/31/2001, charged with welfare

fraud; felony dismissed; approved for recoupment.

PEOPLE v DSHWAN STEWART, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v STEPHANIE STODDARD, Wayne Circuit, 11/18/2002, welfare fraud of \$12,985; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JACOB ANTHONY STOFFER, Kent Circuit, 11/22/2002, charged with 2 counts unlawful use of financial transaction device and 2 counts of using computer to commit crime. Pled to one count of using computer to commit financial transaction device - unlawful use, sentenced to 12 months probation and penalties of \$839.

PEOPLE v MARLA SUMMERS, Wayne Circuit, 12/18/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,865.

PEOPLE v RENEE TATUM, Wayne Circuit, 08/08/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$7,184.

PEOPLE v ANTONETTE TAYLOR, Wayne Circuit, 08/08/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$4,078.

PEOPLE v BRENDA TAYLOR, Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$2,124.

PEOPLE v JOYCE TAYLOR, Wayne Circuit, 08/08/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$830.

PEOPLE v LISA TAYLOR, Wayne Circuit, 06/06/2001, welfare fraud of 2424; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v MARIE TEHLIRIAN, Wayne Circuit, 06/06/2001, welfare fraud of \$23,415; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v CONSTANCE TEMPLE, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$9,783.

PEOPLE v PATRICIA TENNON, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$9,752.00.

PEOPLE v DARNELL TERRY, Wayne Circuit, 04/26/2001, charged with 5 counts violation of the Motor Vehicle Code - False Certification of Personal Information; pled guilty 4/9/01, sentenced 4/26/2001 to 1-5 yrs concurrent with probation violation.

PEOPLE v STEPHANIE LANICE-PETTY TERRY, Wayne Circuit, 04/09/2001, charged with 7 counts violation of the Motor Vehicle Code - False Certification of Personal Information; pled guilty 4/9/01; sentenced 4/9/01 to 1 year probation, \$165 fine, \$300 supervision fee.

PEOPLE v RUTHIE THARPE, Wayne Circuit, 06/06/2001, welfare fraud of 1,045; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v ANGELA THOMAS, Wayne Circuit, 11/18/2002, welfare fraud of \$1,616; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v AUDRENIA THOMAS, Wayne Circuit, 06/06/2001, welfare fraud of 23,323; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v CASSANDRA THOMAS, Wayne Circuit, 10/04/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$1,187.

PEOPLE v CYNTHIA THOMAS, Wayne Circuit, 02/26/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$1,851.

PEOPLE v KAREN THOMAS, Wayne Circuit, 11/26/2002, Welfare fraud of \$13,121; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$14,106.

PEOPLE v KIMBERLY THOMAS, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$1,504.

PEOPLE v ANGELA THOMPSON, Wayne Circuit, 01/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,138.

PEOPLE v EVA THOMPSON, Wayne Circuit, 09/09/2002, charged with welfare fraud; dismissed and approved case for recoupment and returned back to the MFIA.

PEOPLE v WILDA THURMOND, Wayne Circuit, 11/18/2002, welfare fraud, \$3,279; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SYLVIA TILLER, Wayne Circuit, 11/18/2002, welfare fraud of \$2,495; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v PHENICE TODD (WILLIS), Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,900.

PEOPLE v RUBY TOLBERT, Wayne Circuit, 08/27/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$20,428.

PEOPLE v ELIZABETH TORRES, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,283.

PEOPLE v TORIBIO TORRES, Ingham Circuit, 07/25/2001, charged with 5 counts money laundering and 1 count tax fraud re: convicted in September 1998 with delivery/manufacturing less than 50 grams of cocaine. Torres pled guilty to 2nd degree money laundering; sentenced 7/25/2001 to 1 1/2 -10 years in prison to run concurrent with federal sentence.

PEOPLE v ROY TRAHAN II, Cheboygan Circuit, 04/24/2002, charged with 4 counts of violation of campaign finance act; pled guilty to one felony count and sentenced to one year delayed sentence, court costs \$180.00, Probation Enhancement Fund \$50, Crime Victims Compensation Fund \$60, supervision fees \$360, and 80 hours community service.

PEOPLE v KIMBERLY KAY TRITES, Mecosta Circuit, 09/27/2001, charged with embezzlement. Pled guilty to 1 count embezzlement; sentenced to \$41,850

restitution, 90 days in jail, 5 years probation.

PEOPLE v ROBERT LEE TRYON, Kent Circuit, 01/29/2002, charged with 1 count conspiracy to possess with intent to deliver marijuana and 1 ct possession with intent to deliver marijuana. Pled guilty to 1 count possession with intent to deliver 5-45 kilograms of marijuana; sentenced to \$5,000 fine, \$1,000 costs, \$60 CVF, \$1,080 oversight fees, 36 months probation, 365 days suspended license.

PEOPLE v CASSANDRA TUCKER, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$11,763.

PEOPLE v BRENDA TURNER, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,632.

PEOPLE v NACOLE TYLER, Wayne Circuit, 06/06/2001, welfare fraud of 5,970; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v LANITA VANCE, Wayne Circuit, 06/06/2001, welfare fraud of 11,538; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v LOLITA VANN, Wayne Circuit, 11/19/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$33,037.00.

PEOPLE v SHONIRA VAN OMMEREN, Wayne Circuit, 11/18/2002, welfare fraud of \$9,643; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v DEAN ROBERT VARDIA, Kent Circuit, 01/29/2002, charged with 1 ct conspiracy to possess with intent to deliver marijuana and 1 ct possession with intent to deliver marijuana; pled guilty to possession with intent to deliver 5-45 kilograms of marijuana; sentenced to 42 months probation, 365 days suspended license, \$5,000 fine, \$1,000 costs, \$60 CVF, \$1680 oversight fee, \$150 forensic fee.

PEOPLE v DEBRA VAUGHN, Wayne Circuit, 06/06/2001, welfare fraud of 21,330; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v CASONDRIA WALKER, Wayne Circuit, 12/05/2002, charged with welfare fraud; pled and sentenced to 3-years probation, 150 hours community service and restitution of \$2,348.00.

PEOPLE v TONYA WALKER, Wayne Circuit, 01/08/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$6,216.

PEOPLE v CAROLYN WALLACE, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v SHAWN WALLACE, Wayne Circuit, 06/06/2001, welfare fraud of 12,193; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v DELOIS WALLS, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,703.

PEOPLE v ALBERT WALTON, Wayne Circuit, 05/28/2002, charge with 2 counts false pretenses over \$100. Pled guilty to 2 counts in this case and we dismissed Grosse Pointe case. Sentenced to 18 months to 10 years w/MDOC.

PEOPLE v ALBERT WALTON, Wayne Circuit, 03/28/2002, charged with 2 counts false pretenses over \$100. Pled guilty in related case and this case dismissed.

PEOPLE v LYNETTE WALTON, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$11,141.

PEOPLE v CHERYL WARD, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$16,354.

PEOPLE v INDIA WARNSLEY, Wayne Circuit, 02/28/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$36,379.

PEOPLE v ADRIAN WARREN, Wayne Circuit, 12/31/2001, charged with welfare fraud; felony dismissed; approved for recoupment.

PEOPLE v CHARITA WARREN, Wayne Circuit, 10/09/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,497.

PEOPLE v TAMIKA WARREN, Wayne Circuit, 07/18/2001, welfare fraud of \$19,888; pled guilty to welfare fraud; sentenced to \$19,888 restitution, 3 years probation and 150 hours community service.

PEOPLE v J ROBBIE WASHINGTON, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v VANESSA WATERS, Wayne Circuit, 11/18/2002, welfare fraud \$2,581; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LYNDA WATKINS, Wayne Circuit, 06/06/2001, welfare fraud of 6,526; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v MICHELLE WATSON, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$10,074.

PEOPLE v ROBERT WATSON, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,057.

PEOPLE v ROSETTA WATSON, Wayne Circuit, 01/10/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$5,353.

PEOPLE v DAVID WATTS, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$526.00.

PEOPLE v MARIE WEBB, Wayne Circuit, 06/06/2001, welfare fraud of 969; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v KENNETH SCOTT WEBER, Ingham Circuit, 11/15/2002, charged with 1 count child sexually abusive activity and 1 count using a computer to commit a crime. Pled to 1 count distributing obscene material to a minor and 1 count using the internet/ computers with another to commit a crime; sentenced to 36 months probation and one year jail.

PEOPLE v JOANN WEBSTER, Wayne Circuit, 10/15/2001, welfare fraud; pled and

sentenced to 3 years probation, 150 hours community service, and restitution of \$5,734.

PEOPLE v JACQUETTA WESLEY, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$5,688.

PEOPLE v TRACY WESLEY, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$7,789.

PEOPLE v TERRY FRANCIS WHALEY, Kent Circuit, 08/07/2001, pled guilty to one count conspiracy to deliver/manufacture controlled substance and habitual second; sentenced 8/7/01 to one year additional imprisonment, 3 years probation, \$600 costs, \$60 crime victims, and \$1,080 oversight fee.

PEOPLE v MADONNA WHITLEY, Wayne Circuit, 06/06/2001, welfare fraud 2,658; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v ADA WHITSON, Wayne Circuit, 12/06/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$11,854.

PEOPLE v STEPHANIE WILKERSON, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$10,389.

PEOPLE v DAVIDA WILKES, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$12,394.65.

PEOPLE v DANIEL VARIELL WILKINSON, Kalamazoo Circuit, 12/31/2001, Blessings Pyramid Scheme. Charged by Kalamazoo County Prosecutor and co-authorized by AG with 1 count promoting pyramid/chain schemes; pled guilty and sentenced.

PEOPLE v BARBARA WILLIAMS, Wayne Circuit, 06/06/2001, welfare fraud of 4,342; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v CHARLOTTE WILLIAMS, Wayne Circuit, 03/05/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$8,614.

PEOPLE v CHARMAINE WILLIAMS, Wayne Circuit, 06/06/2001, welfare fraud of 6,749; Pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v ERIC WILLIAMS, Wayne Circuit, 07/24/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$5,420.

PEOPLE v FREDA WILLIAMS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v JENITA WILLIAMS, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$10,645.

PEOPLE v MARY WILLIAMS, Wayne Circuit, 07/18/2001, welfare fraud of \$6,393; pled guilty to welfare fraud; sentenced to \$6,393 restitution, 3 years probation and 150 hours community service.

PEOPLE v MARY WILLIAMS, Wayne Circuit, 12/06/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$2,645.

PEOPLE v TAMIKA WILLIAMS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v TONIA WILLIAMS, Wayne Circuit, 01/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$3,870.

PEOPLE v CAROL WILLIAMSON, Wayne Circuit, 11/01/2002, charged with welfare fraud; dismissed and approved for recoupment and returned to the MFIA.

PEOPLE v CHARLESTINE WILLIS, Wayne Circuit, 03/15/2001, charged with 1 count food stamp fraud over \$1,000; Pled guilty and sentenced 3/15/01 to 4 yrs probation, \$9,420 restitution.

PEOPLE v JOANNE WILLIS, Wayne Circuit, 11/18/2002, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v LISA WILLIS, Wayne Circuit, 10/15/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community service, and restitution of \$9,607.

PEOPLE v ANDREA WILSON, Wayne Circuit, 12/31/2001, charged with welfare fraud; felony dismissed; approved for recoupment

PEOPLE v DONALD WILSON, Oakland Circuit, 01/25/2001, case was co-prosecuted by special aag Bianco. Wilson was convicted by a jury with receiving & concealing over \$20,000, altering vehicle identification, obtaining money under false pretenses, and receiving & concealing over \$1,000; sentenced on 1/25/01 to 9 months jail, 1 year tether and 2 years probation, \$80,000 restitution

PEOPLE v DORETHIA WILSON, Wayne Circuit, 10/04/2001, welfare fraud; pled and sentenced to 3 years probation, 150 hours community services, and restitution of \$5,874.

PEOPLE v FELICIA WILSON, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$11,140.

PEOPLE v KATINA WILSON, Wayne Circuit, 06/06/2001, welfare fraud of 2,837; pled guilty to welfare fraud, sentenced to 3 years probation, 150 hours community service and restitution.

PEOPLE v NANITA CHRISTINE WILSON, Wayne Circuit, 04/10/2002, charged with 1 count receiving a device for accessing the proceeds of a credit application in another's name, 2 counts submitting an application for credit in another's name, 1 count obtaining personal identity information of another with unlawful intent, 1 count using a computer to commit a crime. Pled guilty; sentenced to 1 year probation.

PEOPLE v PATRICIA WILSON, Wayne Circuit, 11/29/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$3,121.

PEOPLE v DESHAWN D WITCHER, Calhoun Circuit, 07/09/2001, Charged by the Calhoun County Prosecutor with assault with intent to murder and felony firearm for trying to kill a Battle Creek police officer. After case was bound over to circuit court, prosecutor conflict appeared. We took over the case from the prosecutor 1/30/2001. Found guilty by jury on all counts of assault with intent to murder and felony firearm;

sentenced 7/9/01 to life in prison.

PEOPLE v JAMES EDWARD WOMACK, Branch Circuit, 08/03/2001, charged with 1 count racketeering. Pled guilty to 1 count of conspiracy to possess with intent to deliver less than 5 kilograms of marijuana on 6/21/01. Sentenced on 8/3/01 to 1 year in jail (suspended), 60 days tether, 2 years probation, \$2,500 fine, \$60 crime victims, \$500 costs and \$150 other fine.

PEOPLE v EDWIN DAVID WOOD, Washtenaw Circuit, 10/29/2001, charged with conspiracy to embezzle (5 counts) re: First Financial Acceptance Corporation, pled to 1 count of aiding and abetting embezzlement; sentenced to 2-10 years in the federal system. Sentence is to run concurrent with federal sentence (14 years).

PEOPLE v CHRISTINE WOODS, Wayne Circuit, 11/13/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$6,107.

PEOPLE v DANA WOODS, Wayne Circuit, 06/20/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$2,995.

PEOPLE v LAVERNE WOODS, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$16,733.

PEOPLE v NESHEIA WOODS, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$10,024.

PEOPLE v ROBERT WOODS JR, Saginaw Circuit, 05/14/2001, charged by Saginaw County Prosecutor with election law violation and willful neglect of duty re: Saginaw County Grand Jury election fraud investigation case against Woods and Willie Jenkins being handled by AG because of prosecutor conflict. Pled guilty to 2 counts willful neglect, 1 count Election Law; sentenced 5/2/01.

PEOPLE v KAREN WOOLFOLK, Wayne Circuit, 04/23/2002, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service, and restitution of \$6,413.

PEOPLE v SHAKITA WORD, Wayne Circuit, 12/17/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$7,747.00.

PEOPLE v MARCILENE WRIGHT, Wayne Circuit, charged with welfare fraud; dismissed and approved for recoupment. Case returned to complaining agency, MFIA.

PEOPLE v BEN W.H. XIE, Kent Circuit, 10/10/2002, charged with 1 count possession with intent to deliver controlled substance-Ecstasy; pled guilty to 1 count possession with intent to deliver controlled substance; sentenced to 60 days jail, \$525 costs, \$60 cvf, \$60 DNA, \$840 supervision fee, \$21 months probation.

PEOPLE v KARNITA YOUNG, Wayne Circuit, 06/01/2002, Charged with welfare fraud dismissed and approved for recoupment

PEOPLE v REGINA YOUNG, Wayne Circuit, 12/12/2001, charged with welfare fraud; pled guilty and sentenced to 3 years probation, 150 hours community service and restitution of \$7018.

PEOPLE v REMONA YOUNG, Wayne Circuit, 06/20/2002, charged with welfare fraud; pled and sentenced to 3 years probation, 150 hours community service and restitution of \$7,017.

PEOPLE v RHEA YOUNGBLOOD, Wayne Circuit, 06/01/2002, welfare fraud of \$1,750; Dismissed - By Plaintiff, approved for recoupment

PEOPLE v BASSAM NATIQ ZORA, Wayne Circuit, 01/28/2002, charged with one count food stamp fraud and one count conspiracy to commit food stamp fraud for illegal food stamp trafficking. Pled to reduced charge of larceny by conversion; sentenced to \$5,000 fine, \$330 costs, \$720 probation supervision fee, \$60 cvf, 18 months probation.

PEOPLE v ARTUR ZUKOWSKI, 46th District Court, 11/01/2001, charged with 1 count embezzlement of property over \$1,000 but less than \$20,000 and 1 count using a computer to commit a crime, pled guilty to 2 counts of using a computer to commit a crime; sentenced to 18 months probation, 45 days in jail, \$7,500 restitution, \$540 supervision fee.

**Health Care Fraud - Prosecutions 2001 - 2002**

PEOPLE v SHERMAN L. ALLEN, D.D.S., Ingham Circuit, 10/24/2001; judgment - Plea Agreement, 8/22/01 pled to 2 Counts Medicaid Fraud False Claim; 9/19/01 Sentenced to \$101,554.83 Medicaid restitution, CVRA \$60, Costs \$250, Supervision fee to DOC of \$600, 150 hours volunteer work, at least 18 months up to 60 months probation.

PEOPLE v RODRIGO ARZADON, 30 Ingham (City Hall), 01/03/2001; judgment - Plea Agreement, plea entered to 1 Count Medicaid Fraud False Claim; Sentenced to 1 year probation, \$500 costs, \$60 CVRA, \$20 DOC supervision fee, 5 hours per week volunteer/community service work.

PEOPLE v SHARIF BAIG, M.D., Court of Appeals, 11/18/1999; affirmed - In Full, 11/16/99 appeal dismissed by ct for want of prosecution, appellant failed to timely file the brief on appeal; 6/29/01 Court of Appeals affirmed lower court's decision.

PEOPLE v NICHOLAS W. BARTZ, D.O., Court of Appeals, 12/18/2002; affirmed - In Full, 2/12/96 bound over from 54-B District Court to Ingham Circuit Court; 1/24/00 Defendant filed Claim of Appeal in Michigan Court of Appeals appealing jury verdict of 11/12/99 and Order of Probation of 12/15/99 and denial of Defendant's Motion for Directed Verdict of Acquittal and Motion for New Trial in Ingham Circuit Court; 9/327/02 Opinion issued affirming lower court's decision.

PEOPLE v SAMI BILANI, D.D.S., Wayne Circuit, 04/30/2001; judgment - Plea Agreement, 7/27/01 Plea entered to 1 Count Obtain Money Under False Pretenses Less than \$200. 1/31/01 Sentenced to two years probation, \$92,391.98 restitution to Blue Cross/Blue Shield of Michigan, \$79,521.19 restitution to Medicaid, \$60 CVRA, \$330 costs.

PEOPLE v SAMI BILANI, D.D.S., P.C., Wayne Circuit, 04/30/2001; judgment - Plea Agreement, 7/27/01 Plea entered to 3 Counts Filing False Medicaid Claims; 1/31/01 Sentenced to 2 years probation, \$60 CVRA, \$330 costs, restitution to be determined.

PEOPLE v STACIE BIRDSOING, Wayne Circuit, 07/19/2001; judgment - Plea Agreement, 6/19/01 Plea entered to 1 Count Medicaid Fraud; 6/19/01 Sentenced to 30 days jail (to be released early upon payment of \$900 costs/fines).

PEOPLE v FRANK PAUL BONGIORNO, M.D., 36th District Court, 09/04/2002; dismissed - By Plaintiff, 8/30/02 Dismissed by Plaintiff without prejudice in order to file complaint in Ingham County.

PEOPLE v LASHONDA ROSEANNE BRACKETT, Kent Circuit, 09/13/2002; verdict - Jury, 9/13/02 Trial by jury, guilty of 1 Count Aid and Abetting and Uttering and Publishing; \$470.76 restitution to victim, \$60 CVRA, \$600 costs, \$60 DNA \$1,200 oversight fee.

PEOPLE v PATRICE MARIE BRIDGES, Oakland Circuit, 03/27/2002; judgment - Plea Agreement, 2/13/02 Plea entered to 1 Count Attempt Medicaid Fraud Kickback; 3/12/2002 Sentenced to 24 months probation, 200 hours community service in lieu of 90 days jail, \$60 DNA, \$60 costs and \$60 CVRA.

PEOPLE v PAMELA BROOKS-MCARTHUR, Wayne Circuit, 01/14/2002; judgment - Plea Agreement, 11/2/01 Plea entered to 1 Count Attempt False Medicaid Claims; 11/27/01 Sentenced to 2 years probation, \$60 CVRA, \$330 Costs, \$240 Supervision fee to DOC, 25 hours community service.

PEOPLE v JOYCELYN CAIN, 68th District Court, 12/18/2002; dismissed - By Court, 4/23/01 District Court dismissed case without prejudice.

PEOPLE v JOYCELYN CAIN, Genesee Circuit, 12/18/2002; affirmed - In Full, 11/14/2002 Genesee County Circuit Court affirmed District Court's decision not to

bind over Defendants.

PEOPLE v CARE WITH LOVE, A DIRECTORSHIP, Kalamazoo Circuit, 03/11/2002; verdict - Jury, 1/23/02 Jury Trial, guilty verdict; 3/4/02 Sentenced to 18 months probation, \$350 court costs.

PEOPLE v CARE WITH LOVE, A DIRECTORSHIP, Court of Appeals, 07/16/2002; closed Adminly - , See AG #01007849C, as both defendants (Care with Love and Tabitha Magoti) were combined under one Court of Appeals docket number.

PEOPLE v MICHAEL EDWARD CARTER, Calhoun Circuit, 11/29/2001; dismissed - By Court, 10/18/01 Jury trial not guilty; Dismissed.

PEOPLE v COURTYARD MANOR FARMINGTON HILLS, Oakland Circuit, 07/30/2002; judgment - Plea Agreement, 5/30/01 Sentenced to \$7,500 fine, Defendant to comply with the State of Michigan Monitoring Agreement for 1 year following appointment of the monitor. 7/30/2002 Monitoring completed.

PEOPLE v RONALD CRUMP, 16th District Court, 04/30/2001; dismissed - By Court, 6/14/00 16th District Court dismissed w/o prejudice.

PEOPLE v RONALD CRUMP, Oakland Circuit, 02/21/2001; judgment - Plea Agreement, 10/30/2001 Plea entered to 1 Count Felon in Possession of Firearm, 12/11/00 sentenced to 18 months probation, \$60 Crime Victim Rights Act, \$450 costs, \$540 supervisory fee.

PEOPLE v RONALD CRUMP, Wayne Circuit, 04/30/2001; dismissed - By Plaintiff, AAG stipulated to dismissal of this appeal to circuit court due to Defendant entering a plea to Vulnerable Adult Abuse, 4th Degree, in district court.

PEOPLE v RONALD CRUMP, 16th District Court, 01/31/2001; judgment - Plea Agreement, 11/7/00 Complaint filed to 1 Count Vulnerable Adult Abuse, 4th Degree; 1/8/01 pled to 1 Count Vulnerable Adult Abuse, 4th Degree; 1/12/01 sentenced to fines \$100, costs \$209, CVRA \$50, other costs \$400.

PEOPLE v TIMOTHY GLENN CUDNEY, 53rd District Court, 10/31/2001; judgment - Plea Agreement, 9/18/01 Plea entered to 1 Count Patient Abuse; 10/22/01 Sentenced to 1 year probation, 90 days jail to be suspended after successful completion of probation, complete psychological counseling, costs of \$155, PSI \$75, CVRA \$50, probation costs \$360.

PEOPLE v CHRISTINE YVETTE DALTON, Ingham Circuit, 07/31/2001; judgment - Plea Agreement, 3/28/01 Plea entered to 2 Counts Financial Transaction Device; 5/9/01 Sentenced to 30 days jail and 16 days jail to run concurrently, \$60 CVRA, 1 day jail credit.

PEOPLE v DAVID WESLEY DELAUTER, Michigan Supreme Court, 01/31/2001; leave To Appeal - Denied, Defendant filed Application for Leave to Appeal from Circuit Court's decision deny his Motion for Relief from Judgment; (40th Circuit Court #91004372fcc; 7/27/00 Plaintiff filed Application for Leave to Appeal from Court of Appeal's decision denying Application for Leave to Appeal from his Motion for Relief from Judgment pursuant to MCR 6.500 et seq and Brief in Support of Application; 12/27/00 Michigan Supreme Court denied Defendant's Delayed Application for Leave to appeal.

PEOPLE v DAVID WESLEY DELAUTER, Court of Appeals, 06/21/2001; dismissed - By Court, 4/26/01 Michigan Court of Appeals denied Defendant's Delayed Application for Leave to Appeal.

PEOPLE v DAVID WESLEY DELAUTER, Michigan Supreme Court, 06/21/2001; dismissed - By Court, 3/27/01 Michigan Supreme Court denied Defendant's Motion for Reconsideration.

PEOPLE v DAVID WESLEY DELAUTER, Michigan Supreme Court, 02/14/2002;

Leave To Appeal - Denied, 11/30/01 Supreme Court denied Defendant's Delayed Application for Leave to Appeal the April 26, 2001 decision of the Court of Appeals.

PEOPLE v SHARON LEE DICKINSON, 66th District Court, 08/21/2001; judgment - Plea Agreement, 7/9/2001 Plea entered to 1 Count A&B; 7/9/01 Sentenced to 12 months probation, \$120 fee, \$338 costs, \$162 fines, \$458.75 defense attorney fees, 20 days Jail, 20 hours community service, not be employed as caregiver.

PEOPLE v DR. WALTZ DENTURE SERVICE, PLLC, Ingham Circuit, 05/13/2002; judgment - Plea Agreement, 3/19/02 Plea entered to 1 Count Medicaid Fraud - False Claim and 1 Count Health Care Fraud - False claim; \$2,500 must be reimbursed to Attorney General, \$60 CVRA.

PEOPLE v BRUCE D. DUCKETT, D.D.S., 30 Ingham (City Hall), 12/11/2001; judgment - Plea Agreement, 6/26/01 Plea entered to 1 Count Medicaid Fraud - False Claim; 8/8/01 Sentenced to 60 months probation, \$60 CVRA, \$324,484.46 Medicaid restitution, 400 hours community service.

PEOPLE v DURAND CLINIC, P.C., Shiawassee Circuit, 01/22/2001; judgment - Plea Agreement, 12/1/99 comp filed to 6 Counts Obtain Money Under False Pretenses; 1 Count Conspiracy for fraudulently obtaining money under false pretenses; 23 Counts False Claims; Count Insurance Fraud; 1 Count Conspiracy to Commit Insurance Fraud; 5/24/00 bond over from 66th District Court to 35th Circuit Court, as charged; 10/23/01 Pled to 2 Counts Health Care Fraud False Claims; 1/16/01 Sentenced to 48 months probation, restitution \$347,463 to Blue Cross/Blue Shield, CVRA \$60, Probationary Supervision Fee \$1,440, Costs \$2,000 to run concurrent w/Jason Hollady, M.D., AG #1999058325.

PEOPLE v DARRIN EASON, Wayne Circuit, 11/07/2001; judgment - Plea Agreement, 9/11/01 Plea entered to 1 Count Attempt Medicaid False Claims; 10/19/01 Sentenced to 1 year probation, 50 hours community service, \$60 CVRA, 30 hours week employment.

PEOPLE v RONALD CHARLES ECKERT, D.D.S., Ingham Circuit, 01/31/2001; judgment - Plea Agreement, 9/30/99 61 Counts Medicaid False Claims filed; 3/27/00 bound over to Ingham County Circuit Court as charged; 10/11/00 Plea entered to 1 Count Medicaid Fraud False Claim; 1/11/01 sentenced to 18 months probation, restitution to Medicaid \$75,000, CVRA \$60, 100 hours volunteer work, supervision fee to Department of Corrections \$540, 1 day Ingham County Jail.

PEOPLE v TERI LYNN EDDY, 59th District Court, 11/30/2001; judgment - Plea Agreement, 11/21/01 Plea entered to 1 Count False Pretense under \$200; 11/21/01 Sentenced to 1 year probation, \$400 fines, \$159 costs, \$240 probation, 64 hours community service or 8 days jail.

PEOPLE v JACQUELINE RENEE EDWARDS, 23rd District Court, 06/19/2002; judgment - Plea Agreement, 4/29/02 Plea entered to Assault and Battery; 6/3/02 Sentenced to 12 months probation, \$500 total fines.

PEOPLE v HOLLY ANN EMMONS, Ionia Circuit, 05/22/2001; judgment - Plea Agreement, 5/15/01 Pled to 1 Count Vulnerable Adult Abuse, 2nd Degree; 5/15/01 Sentenced to \$1,000 Fines and costs, \$60 CVRA, \$540 Supervision fee to DOC, 18 months probation, placed on electronic monitoring system for six months & reimburse the state for all expenses.

PEOPLE v FIRST CARE DENTAL, P.C., Wayne Circuit, 04/30/2001; dismissed - By Plaintiff, 1/31/01 AG's Office dismissed case w/o prejudice.

PEOPLE v FIRST CARE HAMTRAMCK DENTAL, P.C., Wayne Circuit, 04/30/2001; judgment - Plea Agreement, 7/27/00 Plea entered to 3 Counts Filing False Medicaid Claims; 1/31/01 Sentenced to 2 years probation, \$60 CVRA, \$330 costs, restitution to be determined.

PEOPLE v RAFAEL FOSTER, Ingham Circuit, 01/24/2002; order - Discharged, 1/15/02 Order entered discharging Defendant.

PEOPLE v JEARENE FOX THOMAS, 47th District Court, 02/15/2001; dismissed - By Plaintiff, 2/15/01 Nolle Pros entered.

FRANK J. KELLEY, EX REL PEOPLE OF THE STATE OF MICHIGAN v BANK ACCOUNTS AND ACCOUNTS RECEIVABLE OF SAMI BILANI, D.D.S., 19th District Court, 07/31/2001; order - Final, Civil forfeiture action wherein Defendant's assets were seized and forfeited to the State of Michigan.

PEOPLE v KENNETH GAINES, Wayne Circuit, 01/31/2001;judgment - Plea Agreement, plea entered 11/22/2001 to 1 Count Attempt Health Care Fraud; 1/23/01 sentenced to 18 months probation, \$60 CVRA, Costs \$165 per year.

PEOPLE v THOMAS VINCENT GARDNER, Antrim Circuit, 02/28/2002; judgment - Plea Agreement, 12/17/01 Plea entered to 1 count Attempt Fabricated/ Destroyed Medical Records; 2/1/02 Sentenced to 24 months probation, 40 hours community service, 30 days jail to be held in abeyance, \$200 fine, \$1,000 costs, \$60 CVRA, Local Crime Victim Fund \$25.

PEOPLE v MAIER LORETT GARY, Oakland Circuit, 04/30/2001; judgment - Plea Agreement, 2/13/01 Plea entered to 1 Count Use Telecommunication Device to Avoid Payment \$200-\$1000; 3/14/01 Sentenced to 12 months probation, \$300 costs, \$1,177.44 restitution, pay attorney fees and maintain a job.

PEOPLE v GERALD GOFF, 30 Ingham (City Hall), 01/12/2001; judgment - Plea Agreement, 1 Count Unauthorized Practice of Health profession and 1 Count Medicaid Fraud filed 9/22/99 and 1 Count Receiving Money Under False Pretenses; 11/5/99 bound over as charged; 3/28/00 Plea entered to 1 Count Unauthorized Practice of Health Profession and 1 Count Receive Money Under False Pretenses; 12/20/00 Sentenced to 5 years probation, CVRA \$60, Restitution to the Community Mental Health Board of \$91,987.50, 4 hours community service each month, 3 months jail for each count to run concurrent; if all conditions of probation are met, jail to be suspended.

PEOPLE v WILFRED GRIFFITH, Wayne Circuit, 02/21/2001;judgment - Plea Agreement, 11/14/2001 plea entered to Unauthorized Practice; 18 months probation, 200 hours community service, \$60 Crime Victim's Rights Act, \$247 costs.

PEOPLE v WILFRED GRIFFITH, Wayne Circuit, 02/21/2001; judgment - Plea Agreement, 11/14/01 plea entered to False Pretenses, Unauthorized Practice; 1/31/01 Sentenced to 18 months probation, 200 community service, \$180 supervision fee to Department of Corrections, \$4,428 restitution, \$247 costs, \$60 Crime Victim's Rights Act.

PEOPLE v ANDREW HARDY, JR., Ingham Circuit, 03/27/2002; judgment - Plea Agreement, 3/6/02 Plea entered to 1 Count Attempt Criminal Enterprise; 3/6/02 Sentenced to 18 months probation, 120 hours community service, \$1,200 costs, \$360 supervision fee to Department of Corrections.

PEOPLE v JOY LYNN HENDREN, 19th District Court, 03/26/2001; dismissed - By Court, 6/28/00 Dismissed by District Court after preliminary examination.

PEOPLE v DARLENE HILL, 16th District Court, 05/22/2001; dismissed - By Court, 6/14/00 Case dismissed after preliminary examination without prejudice; AG then appealed to the Third Circuit Court.

PEOPLE v DARLENE HILL, Wayne Circuit, 05/22/2001; dismissed - By Court, 5/18/01 Third Circuit Court entered Order of Dismissal, affirming lower court's decision to dismiss case.

PEOPLE v JASON HOLLADY, M.D., Shiawassee Circuit, 01/22/2001; judgment - Plea Agreement, 12/1/99 complaint filed to 6 Counts Obtaining Money Under False

Pretenses; Count Conspiracy/Fraud Obtain Money Under False Pretenses; 23 Counts False Claims; Count Insurance Fraud; 1 Count Conspiracy to Commit Insurance Fraud; 5/24/00 bound over to 35 Circuit Court from 66th District Court as charged; 10/23/01 Pled to 2 Counts Health Care Fraud False Claims; 1/16/01 Sentenced to \$5,000 fine, \$2,000 costs, \$60 CVRA, 48 months probation; 9 months jail, work release, \$347,463 restitution to Blue Cross/Blue Shield probationary supervision fee \$1,440; 200 hours community service.

PEOPLE v HORIZON/CMS HEALTHCARE CORP., Ingham Circuit, 12/18/2002; judgment - Plea Agreement, 10/11/02 Defendant entered into Plea Agreement; Medicaid Restitution \$650,000, Program Income \$387,950; Nolle entered as to corporation.

PEOPLE v HORIZON/CMS HEALTHCARE CORP, Court of Appeals, 03/05/2002; Leave To Appeal - Denied, 2/27/02 Court of Appeals denied Defendant's Application for Leave.

PEOPLE v HORIZON/CMS HEALTHCARE CORP, Michigan Supreme Court, 11/15/2002; dismissed - By Court, 11/13/02 Order issued dismissing application with prejudice and without costs due to stipulation of attorneys.

PEOPLE v KAREN HUDSON, Ingham Circuit, 05/22/2001; order - Discharged, 2/18/98 Complaint filed to 1 Count Vulnerable Adult Abuse, 1 Count Altered Medical Records; 9/23/98 Bound over as charged; 5/14/01 Case bound over to Ingham Circuit Court from 54-B District Court #98-0631FY on 1 Count Vulnerable Adult Abuse, 2nd Degree. (new docket # opened in error by court - should be 98-73948-FH); Defendant appealed Motion to Quash to Ingham Circuit Court and they ruled in Defendant's favor. We then appealed to the Michigan Court of Appeals and the Circuit Court was reversed, sending case back to 54-B District Court; 5/14/01 Bound over to 30th Circuit Court again; 1/15/02 Order entered discharging Defendant.

PEOPLE v KAREN HUDSON, Ingham Circuit, 11/16/2001; dismissed - By Plaintiff, 5/14/01 Case bound over to Ingham Circuit Court from 54-B District Court #98-0631FY on 1 Count Vulnerable Adult Abuse, 2nd Degree. (new docket # opened in error by court - should be 98-73948-FH).

PEOPLE v DEANNA RACHELLE HUFF, Ingham Circuit, 12/20/2001; judgment - Plea Agreement, 10/23/01 Plea entered to 1 Count Attempt Medicaid Fraud - Kickback/ Referral Fees; 11/28/01 Sentenced to 15 months probation, \$60 CVRA, 120 hours community service in lieu of jail.

PEOPLE v SAUNDRA HUNTER, Ingham Circuit, 02/28/2001; judgment - Plea Agreement, 8/7/00 Plea entered to Medicaid Fraud -False Claim, 1/31/01 sentenced to 18 months probation, \$150 costs, \$60 Crime Victim Rights Act, \$15 per month supervision fee to Department of Corrections, 200 hours community service.

PEOPLE v ANDERSON JACKSON, JR., Wayne Circuit, 02/28/2001; judgment - Plea Agreement, 8/8/00 Complaint filed to 3 Counts U&P; 2/14/01 bound over as charged, adding 1 Count Habitual Offender; 2/28/01 remanded back to 32-A District Court; 3/21/01 bound over again as charged; 10/31/01 Plea entered to 1 count Uttering and Publishing; 11/20/01 Sentenced to 18 months - 14 years jail, \$60 CVRA, \$150 assessment for forensic lab test

PEOPLE v WAYNE JACKSON, 36th District Court, 02/28/2001; dismissed - By Court, 6/2/99 Complaint filed to 12 Counts Medicaid False Claims and 12 Counts False Medical records; 6/10/99 entered into LEIN; 9/21/00 court dismissed case due to complaining witness failing to appear; case refiled 1/3/2001.

PEOPLE v WAYNE JACKSON, Wayne Circuit, 05/23/2002; judgment - Plea Agreement, 4/24/02 Plea entered to 1 Count Attempt Medical Fraud; 5/6/02 Sentenced to 6 months jail.

JENNIFER M. GRANHOLM, EX REL, PEOPLE OF THE STATE OF MICHIGAN v BANK ACCTS & ACCTS RECEIV OF DANIEL WHITE, & GARY MANCEWICZ, 62-B District Court, 09/30/2002; dismissed - By Plaintiff, 8/1/02 Case dismissed by agreement after forfeiture of seized monies.

PEOPLE v CALVIN REGINALD JOHNSON, Oakland Circuit, 04/30/2001; judgment - Plea Agreement, 2/13/01 Plea entered to 1 Count Use Telecommunication Device to Avoid Payment \$200-\$1000; 3/14/01 Sentenced to 12 months probation, \$230.94 restitution, \$300 costs, maintain job, pay attorney fees in addition to costs and restitution, no controlled substance, no alcohol, treatment and testing.

PEOPLE v LINDA JOHNSON-WOODS, Wayne Circuit, 04/26/2002; judgment - Plea Agreement, 2/6/02 Plea entered to 1 Count Vulnerable Adult Abuse; 3/28/02 Sentenced to 2 years probation, \$60 CVRA, \$330 costs, \$240 DOC supervision fee.

PEOPLE v CLARENCE MARSHALL JONES, Ingham Circuit, 09/20/2002; judgment - Plea Agreement, 4/9/02 Defendant pled to 1 Count Attempt Criminal Enterprise with remaining counts dismissed 9/18/02 Sentenced to 5 years probation, \$60 DNA testing, \$60 CVRA, 90 days jail.

PEOPLE v ROBERT KUFFA, D.O., P.C., Ingham Circuit, 04/30/2001; judgment - Plea Agreement, 2/28/01 Plea entered to 2 Counts Unlawful Practice of Medicine; 2/2/01 Sentenced to 12 months probation, \$60 CVRA, 180 hours community service.

PEOPLE v ROBERT KUFFA, D.O., Ingham Circuit, 04/30/2001; judgment - Plea Agreement, 2/28/01 Plea entered to 2 Counts Unlawful Practice of Medicine; 2/28/01 Sentenced to 12 months probation, \$60 CVRA, 180 hours community service.

PEOPLE v ASHLEY LYNN LOGAN A/K/A ASHLEY NEAL, Bay Circuit, 05/31/2002; judgment - Plea Agreement, 2/11/02 Plea to 1 Count Identity Theft; 4/1/02 Sentenced to 15-60 months prison, \$1,436.22 to Discovery Bank.

PEOPLE v CARMETTA LUNDY, Ingham Circuit, 04/03/2002; judgment - Plea Agreement, 1/29/02 Plea entered to 1 Count Medicaid Fraud - Kickback/Referral Fees; 3/20/02 Sentenced to 3 months probation, \$500 costs, \$60 CVRA, seven days jail.

PEOPLE v EVA MADDEN, Wayne Circuit, 04/30/2001; judgment - Plea Agreement, 3/20/01 Plea entered to 2 Counts Altering Medical Records; 4/23/01 Sentenced to 18 months probation, CVRA \$60, 30 hours community service, restitution and attorney fees to be determined, \$360 DOC supervision fee.

PEOPLE v TABITHA NSHOYA MAGOTI, Kalamazoo Circuit, 03/11/2002; verdict - Jury, 1/23/02 Jury Verdict - guilty; 3/4/2002 Sentenced to 18 months probation; \$350 court costs; \$2,430 supervision costs.

PEOPLE v GARY WESLEY MANCEWICZ, D.D.S., Kent Circuit, 09/19/2002; verdict - Acquittal, 5/15/01 Defendant acquitted by jury.

PEOPLE v MANCEWICZ AND WHITE, D.D.S., P.C., Kent Circuit, 09/19/2002; verdict - Jury, 5/15/01 Defendant was convicted by jury of 3 Counts Medicaid False Claims; 7/9/01 Sentenced to \$140.19 Medicaid restitution, \$3,000 fine on each count, \$500 Costs, \$60 CVRA.

PEOPLE v MANCEWICZ AND WHITE, D.D.S., P.C., Court of Appeals, 09/30/2002; dismissed - By Plaintiff, 2/6/02 Stipulation entered to dismiss appeal.

PEOPLE v THERESA MICHELLE MARTIN, Oakland Circuit, 04/30/2001; judgment - Plea Agreement, 2/13/01 Plea entered to 1 Count Use Telecommunication Device to Avoid Payment \$200-\$10000; 3/14/01 Sentenced to 12 months probation, \$300 costs, restitution \$146.06, maintain job and in addition to restitution and costs, pay attorney fees.

PEOPLE v BELINDA JEANETTE MCCALED, Kent Circuit, 02/28/2001; judgment - Plea Agreement, 11/20/00 Plea entered to 1 Count Entry w/o Breaking w/Intent to Commit Larceny; 1/10/01 Sentenced to 7 months jail, 30 months probation, \$660 fines, \$2,810.76 restitution to Old Kent Bank, Bank One, Huntington Bank and Rite Aide, \$60 Crime Victim Rights Act.

PEOPLE v BELINDA JEANETTE MCCALED, Kent Circuit, 02/28/2001; judgment - Plea Agreement, 10/20/00 Plea entered to 2 Counts Aiding and Abetting U&P; 1/10/01 sentenced to 7 months jail, 30 months probation, \$60 fine, \$3,995 restitution to Old Kent Bank, Bank One, Huntington Bank and Rite Aide.

PEOPLE v BELINDA JEANETTE MCCALED, Kent Circuit, 02/28/2001; dismissed - By Plaintiff, 2/25/01 Dismissed per plea agreement in another case.

PEOPLE v MICHAEL MCCALED, Kent Circuit, 01/11/2001; dismissed - By Plaintiff, 8/1/00 rec'd by fax f/Kent Co PA for HCF to handle; 1 Count U&P; case dismissed due to plea agreement wherein defendant plead to 2 Counts U&P in case 00-08253-FH.

PEOPLE v MICHAEL MCCALED, Kent Circuit, 01/11/2001; dismissed - By Plaintiff, 8/1/00 recd by fax f/Kent CO PA for us to handle; 1 Count of U&P.

PEOPLE v MICHAEL MCCALED, Kent Circuit, 01/11/2001; - , 8/1/00 Received by fax f/Kent County Prosecuting Attorney for us to handle; 1 Count of U&P; 10/10/20000 dismissed due to plea agreement wherein defendant pled to 2 Counts U&P (Aid and Abet) in case 00-08253-FH.

PEOPLE v MICHAEL MCCALED, Kent Circuit, 01/11/2001;judgment - Plea Agreement, 8/1/00 comp filed to 6 Counts Aiding & Abetting, U&P; 8/16/00 bound over as charged, adding habitual offender - 4th offense notice; 10/10/00 Plea entered to 2 Counts U&P (Aiding and Abetting); Restitution to Banc 1, Old Kent Bank, Huntington Bank and Rite Aid of \$22,734.29, CVRA \$60, Costs \$600, \$150 Assessment for Forensic Lab Test; Custody of Michigan Department of Corrections; 2 concurrent prison terms of 33 months - 14 years to run concurrent.

PEOPLE v JON MCDERMOTT, 54-B District Court, 05/22/2001; dismissed - By Court, 4/30/01 Judge dismissed case per his Opinion and Order.

PEOPLE v YVETTE SIMONE MCINTOSH, 36th District Court, 08/21/2001; judgment - Plea Agreement, 7/11/01 Plea entered to 1 Count Telecommunication Fraud; 7/11/01 Sentenced to 1 year probation, \$100 court costs & \$665.43 restitution to probation.

PEOPLE v NEW ERA ALTERNATIVE TREATMENT CENTER, INC, ET AL, Ingham Circuit, 06/20/2002; judgment - Plea Agreement, 8/7/00 Plea entered to 1 Count Medicaid Fraud False Claim; 12/6/00 Sentenced to \$50,000 fine, \$500 costs, \$60 CVRA.

PEOPLE v PRISCILLA ANN NORRIS-JACKSON, Oakland Circuit, 09/17/2002; verdict - Acquittal, 9/17/02 Trial by jury, acquitted of all charges.

PEOPLE v OAKWOOD HEALTH PROMOTIONS, INC., D/B/A OAKWOOD SKILLED NURSING, Wayne Circuit, 03/27/2001; dismissed - By Court, 10/3/00 Court issued Opinion affirming District Court's dismissal of Vulnerable Adult Abuse, 2nd Degree. Attorney General's appeal for reversal of order is denied.

PEOPLE v STANISLAUS JOSEPH OROWE, M.D., Wayne Circuit, 05/22/2001; judgment - Plea Agreement, 3/28/01 Plea entered to 1 Count Aiding & Abetting Unauthorized Practice of Medicine; 5/2/01 Sentenced to 18 months probation, 60 hours of community service, \$360 supervision fee to Department of Corrections, \$247.50 costs.

PEOPLE v GABRIEL SAGUN ORZAME, Michigan Supreme Court, 07/20/2001; Leave To Appeal - Denied, 7/3/01 Supreme Court denied Defendant's Application for

Leave to Appeal the December 11, 2000, decision of the Court of Appeals.

PEOPLE v L.P. PALMER , Oakland Circuit, 04/30/2001; judgment - Plea Agreement, 2/13/01 Plea entered to 1 Count Use Telecommunication Device to Avoid Payment \$200-\$1000; 3/14/01 Sentenced to 12 months probation, \$300 costs, \$129.20 restitution, pay attorney fees in addition to costs and restitution, maintain job.

PEOPLE v JAMES DARRELL PARKS, Ingham Circuit, 02/28/2001; judgment - Plea Agreement, 8/7/01 plea entered to Medicaid Fraud - False Claims; 1/31/2001 sentenced to 12 months probation; \$150 costs, \$60 Crime Victim Rights Act, \$15 supervision fee to DOC.

PEOPLE v MONICA FAYE PERRY, Oakland Circuit, 04/22/2002; judgment - Plea Agreement, 2/20/02 Plea entered to 1 count Medicaid Fraud Kickback; 3/27/02 Sentenced to 2 years probation, \$600 in costs, \$60 CVRA, \$600 Supervision fee.

PEOPLE v JOSEPH ALEXANDER PITTS, D.O., NEW ERA ALTERNATIVE TREATMENT, 54-B District Court, 02/28/2001; dismissed - By Court, Dismissed 2/25/99 by 54b District Court, We appealed to 30th Circuit Court, hold open pending appeal; see case description for charges; 1/10/00 30th Circuit Court dismissed.

PEOPLE v JOSEPH ALEXANDER PITTS, D.O., Ingham Circuit, 02/28/2001; dismissed - By Court, 1/10/2000 Ingham Circuit Court dismissed this appeal of 54-b District Court.

PEOPLE v MARK GERRY PLUCER, D.O., Genesee Circuit, 06/28/2002; judgment - Plea Agreement, 4/15/02 Plea entered to 1 Count False Pretenses; 24 months probation, 6/7/02 Sentenced to \$2000 fine and costs, \$60 CVRA, 250 hours of community service.

PEOPLE v MARK G. PLUCER, DO., PC, Genesee Circuit, 06/28/2002; judgment - Plea Agreement, 4/15/02 Plea entered to 1 Count Medicaid False Claim; 6/7/02 Sentenced to 60 months probation, \$25,000 fine and costs, \$60 CVRA, Sentence to run concurrent to sentenced imposed in Case No. 01-8291-FH. Defendant to pay probation supervision fees of \$3,000. Upon payment of all fees, Defendant's probation will be terminated.

GRANHOLM, EX REL PEOPLE v WENDALL ALAN RACETTE AND W. ALAN RACETTE, D.D.S., P.C., Ingham Circuit, 03/26/2001; dismissed - By Plaintiff, 2/23/01 Order of Dismissal signed by Judge Houk dismissing case with prejudice and without costs to any party due to Defendant paying restitution in full in his criminal case

PEOPLE v W. ALAN RACETTE, D.D.S., M.S., P.C., Ingham Circuit, 02/21/2001; judgment - Plea Agreement, 9/27/01 Plea entered to 1 Count Medicaid Fraud False Claim; 1/24/2001 Sentenced to 24 months probation, \$4,000 fine, \$2,000 costs, \$720 supervision fee to DOC, \$120 CVRA; 100 hours community service.

PEOPLE v WENDALL ALAN RACETTE, D.D.S., Ingham Circuit, 02/21/2001; judgment - Plea Agreement, 9/21/00 plea entered to 1 Count Medicaid False Claim, \$720 supervision fee to Department of Corrections, \$4,000 fine, \$21,000 Costs, \$120 Crime Victim's Rights Act, 100 hours community service, 24 months probation.

PEOPLE v WENDELL A. RACETTE, Ingham Circuit, 02/21/2001; judgment - Plea Agreement, 11/14/00 plea entered to 1 Count Health Profession- Unauthorized Practice; 1/24/2001 sentenced to 24 months probation, 100 hours community service, \$1,000 fine, \$1,000 costs, \$200,000 restitution, \$60 CVRA.

PEOPLE v LABRENDIA REDDICK, Wayne Circuit, 04/30/2001; judgment - Plea Agreement, 3/20/01 Defendant pled to 2 Counts Altering Medical Records; 4/23/01 Sentenced to 18 months probation, CVRA \$60, Supervision fee to DOC of \$360, 30 hours community service, restitution and attorney fees to be determined.

PEOPLE v BRENDA MARIE REED, Wayne Circuit, 01/31/2001; judgment - Plea

Agreement, 8/8/00 comp filed in 36dc: 2 Counts Conspiracy to obtain financial transaction device through false id & to avoid payment and 1 Count Obtain Telecommunications via false id to avoid payment in excess of \$1,000; 9/21/00 bound over as charged; 11/17/01 plea entered to 1 Count Conspiracy to Obtain Financial Transaction and 1 Count Telecommunications False Identity; 18 months probation, CVRA \$60, costs \$249.50, restitution to be determined, supervision fee to DOC \$180.

PEOPLE v TATANISHA REED, Wayne Circuit, 02/28/2002; dismissed - By Court, 2/7/02 Bench trial, Defendant acquitted of 2 Counts Medicaid False Claims and 2 Counts Fabricated/Destroyed Medical Records.

PEOPLE v DARLENA MAE RICHMAN, Ingham Circuit, 12/18/2002; judgment - Plea Agreement, 10/30/02 Defendant pled to 2 Counts Attempt to Alter Records; \$1,000 fine to be paid by 12/1/02 or be placed on 24 months probation if not paid.

PEOPLE v DARLENA MAE RICHMAN, Court of Appeals, 03/06/2002; Leave To Appeal - Denied, 2/27/2002 Court of Appeals denied Defendant's Leave to Appeal.

PEOPLE v DARLENA MAE RICHMAN, Michigan Supreme Court, 11/15/2002; dismissed - By Court, 11/13/02 Order issued dismissing application with prejudice and without costs per stipulation of the parties.

PEOPLE v ADAM RILEY, 22nd District Court, 04/26/2002; dismissed - By Plaintiff, 4/16/2002 Order of Nolle Prosequi filed dismissing complaint without prejudice.

PEOPLE v ELLIS LEE ROBINSON, JR., Wayne Circuit, 06/20/2002; judgment - Plea Agreement, 3/18/02 Plea entered to 1 Count Embezzlement/Agent over \$20,000; 5/24/02 Sentenced to 3 years probation, \$60 CVRA, \$60 DNA testing.

PEOPLE v MICHELLE AUDETTE ROBINSON, Wayne Circuit, 06/19/2002; judgment - Plea Agreement, 3/18/02 Plea entered to 1 Count Embezzlement/Agent Greater than \$20,000; 5/24/02 Sentenced to \$67,100 restitution to victim, 3 years probation, \$60 CVRA and \$60 DNA testing; should victim die, balance of incoming money to go to Medicaid for reimbursement.

PEOPLE v JOYCE MARIE SCARBROUGH, 19th District Court, 03/23/2000; judgment - Plea Agreement, 2/18/98 comp filed to 1 Count 2nd Degree Vulnerable Adult Abuse; 3/23/00 bound over from as charged; 2/16/01 Plea entered to 1 Count Vulnerable Adult Abuse, 2nd Degree, 2/16/01 Sentenced to \$1,000 investigation costs, other costs \$200, 24 months probation, 80 hours community service.

PEOPLE v JOYCE MARIE SCARBROUGH, Wayne Circuit, 03/27/2001; remanded - Without Decision, 9/25/2000 remanded back to 19th District Court.

PEOPLE v ROBERTO SMITH, 19th District Court, 07/08/2002; judgment - Plea Agreement, 6/13/02 Plea entered to 1 Count Assault and Battery; 6/13/02 Sentenced to 24 months probation, \$480 probation costs, \$200 court appointed attorney fees.

PEOPLE v SANDRA SNYDER, 68th District Court, 12/18/2002; dismissed - By Court, 4/23/01 District Court dismissed case without prejudice.

PEOPLE v SANDRA SNYDER, Genesee Circuit, 12/18/2002; affirmed - In Full, 11/14/02 Order issued by Genesee County Circuit Court affirming District Court's decision not to bind over Defendants.

PEOPLE v STAR HOME HEALTH CARE, INC., Oakland Circuit, 09/17/2002; verdict - Acquittal, 9/17/02 Trial by jury, acquitted of all charges.

PEOPLE v ANTONIA S. TANYI, Oakland Circuit, 08/13/2002; judgment - Plea Agreement, 6/26/02 - Plea entered to 1 Count Vulnerable Adult Abuse - 3rd Degree, 8/12/02 - Sentenced to 1 day jail, CVRA \$50.00, Costs \$300.00, Probation 1 Year,

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PEOPLE v TARUN JAIN , St. Clair Circuit, 06/21/2001;judgment - Plea Agreement, 3/27/01 Plea entered to 1 Count False Pretenses Less than \$200; 4/30/01 sentenced to 93 days jail, \$500 fine, \$1,000 costs, \$5,625 restitution (not Medicaid), \$60 CVRA, 6 months probation; 120 hours community service.

PEOPLE v TRANSMERICA, INC. , 16th District Court, 04/30/2001; dismissed - By Court, 6/14/00 Court dismissed w/o prejudice.

PEOPLE v TRANSMERICA, INC. , Wayne Circuit, 04/30/2001; dismissed - By Plaintiff, AAG stipulated to dismissal of this appeal to circuit court after Defendant pled to Vulnerable Adult Abuse, 4th Degree in the District Court.

PEOPLE v TRANSMERICA, INC., 16th District Court, 01/31/2001;judgment - Plea Agreement, 11/7/00 Complaint filed to 1 Count Vulnerable Adult Abuse; 1/8/01 Pled to 1 Count vulnerable Adult Abuse, 4th Degree, 1/12/01 sentenced to fines \$100, costs \$209.

PEOPLE v MARILYN TUORINIEMI, 68th District Court, 12/18/2002; affirmed - In Full, 4/23/01 District Court dismissed case without prejudice.

PEOPLE v MARILYN TUORINIEMI, Genesee Circuit, 12/18/2002; affirmed - In Full, 11/14/02 Genesee County Circuit Court affirmed District Court's decision not to bind over Defendants.

PEOPLE v MICHAEL URBANIK, DDS, Ingham Circuit, 12/19/2002; judgment - Plea Agreement, 10/15/02 Defendant entered plea to 2 Counts Medicaid Fraud; 11/20/02 Sentenced to \$250,000 Medicaid restitution, \$60 DNA testing, \$60 CVRA, \$3,000 costs, 120 hours community service, 10 days jail.

PEOPLE v W. D. LEE CENTER FOR LIFE MANAGEMENT, INC., Ingham Circuit, 08/30/2001; judgment - Plea Agreement, 7/18/01 Defendant pled to 12 Counts Medicaid Fraud False Claims; 8/22/01 Sentenced to 60 months probation; \$76,620.00 restitution to the State of Michigan; \$1,200.00 costs.

PEOPLE v DAVID MATHEW WALTZ, Ingham Circuit, 05/13/2002; judgment - Plea Agreement, 3/19/02 Plea entered to 1 Count Medicaid Fraud - False Claim - Attempt; and 1 Count Health Care Fraud - False Claim - Attempt; 4/24/02 Sentenced to 3 years probation, \$600 costs, \$3,286.53 Medicaid restitution (reimburse Attorney General \$1,250), \$60 CVRA.

PEOPLE v ROBERT IVAN WALTZ, D.D.S., Ingham Circuit, 05/13/2002; judgment - Plea Agreement, 3/19 Plea entered to 1 Count Unlawful Practice of Medicine - Attempt; 4/24/02 Sentenced to 12 months probation, \$3,286.50 Medicaid restitution (reimburse \$1,250 to Attorney General).

PEOPLE v DANIEL DEAN WHITE, D.D.S., Kent Circuit, 09/19/2002; judgment - Plea Agreement, 1/25/02 Plea entered to 1 Count Medicaid false claims and 1 count False Pretenses over \$200 and under \$1,000; 4/11/02 Sentenced to 18 months probation, \$60 DNA, 60 hours service, \$1,000 fine, \$60, CVRA.

PEOPLE v CARLITO ANN WILLIAMS, Oakland Circuit, 04/16/2002; judgment - Plea Agreement, 1/16/2002 Plea entered to 1 Count Attempt False Pretenses \$1,000 or more, but less than \$20,000; 2/13/02 Sentenced to 24 months probation, \$600.00 costs, \$1,653.54 restitution to Discover Card, \$60 CVRA, 60 hours community service in lieu of 60 days jail.

PEOPLE v EBONI DESHAWN WILLIAMS, Wayne Circuit, 08/15/2002; judgment - Court On The Merits, 3/01/02 Bench trial; guilty of lesser charge of issuing check without account/credit; 2/22/02 Sentenced to 2 years probation, \$60 CVRA, \$330 costs and \$2,900 restitution.

PEOPLE v LISA YELDER, Wayne Circuit, 12/11/2001; dismissed - By Plaintiff, 12/7/01 Case dismissed without prejudice.

**Natural Resources and Environmental Quality - Prosecutions 2001 - 2002**

PEOPLE OF THE STATE OF MICHIGAN v THOMAS WIGHT DAVIS, 93rd District Court, 11/29/2001; Plea Agreement. Pled guilty to one count of Part 301 Inland Lakes and Streams Act and Part 303 Wetland Protection Act. Court ordered defendant to pay \$23,940.00 restitution costs; \$10,000 fines; \$2,400.00 attorney fees, suspended a 90 day jail sentence and two years of supervised probation.

PEOPLE OF THE STATE OF MICHIGAN v JOSEPH BARRET ENGLISH, 88th District Court, 02/19/2002; Verdict. Defendant found guilty on 02/04/02 of illegal discharge into the waters of the State. Awarded \$400.00 costs to the County; \$1,350.00 to the State.

PEOPLE OF THE STATE OF MICHIGAN v JOEL HAROLD FRYE, 90th District Court, 11/29/2001; Plea Agreement. Guilty plea entered on one misdemeanor count of violating the Bodies of Dead Animals Act. Defendant was placed on two years' probation and ordered to pay a \$327.00 fine, \$673.00 in costs to the Court and \$1,000.00 in restitution to the State.

PEOPLE OF THE STATE OF MICHIGAN v ROBERT LEE HALEY, JR., HALEY'S SEPTIC SERVICE, 4th District Court, 05/25/2001; Plea Agreement. Guilty plea to one felony count of illegal discharge into state waters. Three years' probation. Defendant to pay \$30,000 to MDEQ for clean up costs; \$6,000 to MDEQ/Office of Criminal Investigations for costs and \$10,000 to citizens as restitution.

PEOPLE OF THE STATE OF MICHIGAN v LIONEL JEFFERSON, 60th District Court, 11/01/2001; Verdict. Bench trial before Judge Grimm 10/22/2001 - Defendant found guilty as charged. Reimbursement of \$2,500.00 for 2/5 of total operational costs; reimbursement to State for illegal taking/buying on one deer \$1,000.00; fine of \$500.00, 3-year loss of hunting privileges; 2 years' probation; 200 hours of community service.

PEOPLE OF THE STATE OF MICHIGAN v TONY L. LINTON, 82nd District Court, 04/09/2002; Plea Agreement. Defendant sentenced to one year in jail and 24 months' probation; \$10,364 in fines and restitution and \$966 in costs, totaling \$11,330.00. Hunting privileges suspended for 12 years.

UNITED STATES OF AMERICA v MARTIN ENVIRONMENTAL LABORATORIES, INC., a/k/a MARTIN ENVIRONMENTAL, INC., AND JERRY MARTIN, United States District Court, Eastern District, 06/05/2002; Plea Agreement. Martin pled guilty to two counts of mail fraud and sentenced to 12 months in prison. Upon release, defendant on supervised release for 3 years; \$5,000 fine; placement of \$2,500 apology advertisement; \$16,781.50 restitution and \$500.00 assessment, totaling: \$24,781.50.

PEOPLE OF THE STATE OF MICHIGAN v DAVID MCDONALD, 82nd District Court, 02/04/2002; Plea Agreement. Defendant ordered to pay \$715.00 operational costs to MDNR; pay court \$500.00 in restitution and \$2,000.00 in fines, plus court costs. Also agreed to 3-year hunting license suspension and 7 days' incarceration.

DEPT OF ENVIRONMENTAL QUALITY, CRIMINAL INVESTIGATIONS SECTION v LEW BARRON PAGE, 7-W District Court, 05/09/2002; Verdict. Defendant pled guilty to misdemeanor of filling wetland. Fine of \$2,500.00 assessed.

PEOPLE OF THE STATE OF MICHIGAN v ROBERT PALLASCHKE, R & J MACHINING - LAPEER COUNTY, 71-A District Court, 07/24/2002; Verdict. Defendant was found guilty on one misdemeanor count of improperly filling in wetland. Defendant ordered to pay \$1,200 to State of Michigan; \$250 fines and \$260 costs, for a total of \$1,710.00.

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